

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

THOMAS A. JAKUBIK

VS.

NORTHERN ILLINOIS GAS COMPANY

d/b/a NICOR GAS COMPANY

Complaint as to interrupted gas service in Mount Prospect, Illinois.

Chicago, Illinois
March 31, 2004

Met, pursuant to notice at 10:00 a.m.

BEFORE :

Mr. Glennon Dolan, Administrative Law Judge.

APPEARANCES:

THOMAS A. JAKUBIK
1125 Weiland Road
Buffalo Grove, Illinois 60089
pro se;

MS. SARAH NAUMER and
MS. LETISSA C. REID
8000 Sears Tower
Chicago, Illinois 60606
for Nicor.

SULLIVAN REPORTING COMPANY, by
FRANCISCO E. CASTANEDA, CSR,
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1 JUDGE DOLAN: By the power and authority of
2 the Illinois Commerce Commission, I call case
3 No. 03-0367 Thomas A. Jakubik versus Northern
4 Illinois Gas Company doing business as Nicor Gas
5 Company, a complaint as to interrupted gas
6 service in Mount Prospect, Illinois to order.

7 Would the parties please identify
8 themselves for the record.

9 MR. THOMAS JAKUBIK: Tom Jakubik, complainant,
10 1125 Weiland Road, Buffalo Grove, Illinois.

11 MS. NAUMER: Sarah Naumer and Letissa Reid,
12 appearing on behalf of Nicor Gas Company, of the
13 law firm Sonnenschein Nath & Rosenthal, 8000
14 Sears Tower, Chicago, Illinois 60606.

15 JUDGE DOLAN: Let the record reflect there are
16 no other appearances.

17 Mr. Jakubik, are you going to testify
18 first or are you going to call other witnesses
19 first or are you --

20 MR. THOMAS JAKUBIK: No. I'm not familiar
21 with this procedure, but I've got my case written
22 out here. Shall I read it or are you going to

1 accept it as is?

2 JUDGE DOLAN: Well, we do need to present a
3 record; so, obviously, if this is your testimony,
4 I will have to ask you to read it into the
5 record.

6 MR. THOMAS JAKUBIK: Oh, that's fine. Okay.

7 JUDGE DOLAN: Hold on.

8 Raise your right hand.

9 (Witness sworn.)

10 JUDGE DOLAN: Okay. Go ahead and proceed
11 Mr. Jakubik.

12 OPENING STATEMENT

13 BY

14 MR. THOMAS JAKUBIK:

15 This is the presentation of case for
16 complaint 03-0367. This complaint arises due to
17 Nicor's twice disrupting the gas service of
18 Jakubik's six-unit apartment building at 1711
19 Mount -- Victoria Drive, Mount Prospect, Illinois
20 60056.

21 A vendor such as Nicor has a monopoly on
22 the delivery of natural gas to the Northwest Cook

1 County area and should have met or meet a higher
2 standard of customer service than a non-monopoly
3 provider.

4 Nicor's action to arbitrarily disrupt
5 the gas flow -- or disrupt the flow of gas to
6 exchange a gas meter without notice to the
7 customer, Jakubik, and arrogantly defended their
8 contract breach with the statement, Nicor does
9 not have to call its customers when they choose
10 to exchange a meter.

11 Nicor is a business, and as such, needs
12 customers --

13 MS. NAUMER: I need to interject. Where is
14 that statement coming from? That's a quotation
15 and I don't --

16 MR. THOMAS JAKUBIK: That was your statement
17 in a recorded meeting we had about three meetings
18 ago.

19 MS. NAUMER: I mean, do we have a citation to
20 the record? I mean, it's not --

21 MR. THOMAS JAKUBIK: No. It's in there
22 somewhere. I guess, if you give me time, I'll

1 find it. It's just been recorded by the
2 stenographer.

3 MS. NAUMER: Maybe we can do that after we
4 break. I just want to know where things are
5 coming from at this point.

6 JUDGE DOLAN: Well, I guess, Mr. Jakubik, I'm
7 kind of reading your first couple paragraphs
8 here. Now, this is, as opposed to testimony,
9 you're kind of giving yourself an opening
10 statement. Is that what you're doing here?

11 MR. THOMAS JAKUBIK: Correct, I guess.

12 JUDGE DOLAN: All right. Well, what I'll do
13 is, if that's the case, then I'll give you an
14 opportunity to give an opening. And then I'll
15 give you an opportunity to respond to his opening
16 before he actually does his testimony.

17 MS. NAUMER: Are you planning on doing
18 testimony in addition to this?

19 MR. THOMAS JAKUBIK: No, this is it.

20 MS. NAUMER: I --

21 JUDGE DOLAN: Well, he does have -- if you
22 look at the next page, he's got like first

1 occurrence.

2 MS. NAUMER: Okay.

3 JUDGE DOLAN: So that's really more what I'm
4 concerned about is the occurrences. I understand
5 where Nicor is as far as their business entity,
6 as far as gas, you know, and all that kind of
7 stuff.

8 So like I said, this kind of reads to me
9 more like an opening statement than it does --

10 MR. THOMAS JAKUBIK: Should I continue or skip
11 over it?

12 JUDGE DOLAN: -- testimony.

13 No. Feel free to go ahead and give an
14 opening and then I'm going to give them an
15 opportunity to present their opening and then you
16 can testify about the two occurrences. All
17 right.

18 MR. THOMAS JAKUBIK: Okay. I'll stop at the
19 occurrences. Okay.

20 Nicor's monopoly would just immediately
21 exchange gas meters when Nicor disrupted service.
22 But, again, since Nicor is a monopoly, the

1 customer has no alternative.

2 This is a complaint -- this is not a
3 complaint about Jakubik's nonpayment for gas
4 supplies. This is a complaint due to Nicor's
5 desire to replace a meter, which at the time was
6 in good working order. The replacement of the
7 meter was part of a sampling program done every
8 year during the year. There is no urgent need to
9 replace this meter without first notifying the
10 customer owner, Jakubik.

11 Nicor had no authority to contact
12 Jakubik's tenants without first getting approval
13 from the owner, Jakubik. The tenants have no
14 interest, no authority of any kind to accept,
15 advise or approve of any contact from Nicor.
16 Nicor knew or should have known that the only
17 entity that Nicor can legally contact its
18 customer is the owner Jakubik. The customer
19 Jakubik is the only entity that Nicor must
20 communicate by contract.

21 As stated in Nicor's sample letter,
22 which was 57 -- you should have a copy of --

1 there was no urgency -- urgency statement but
2 just the opposite statement, that Nicor needed to
3 test the gas meter this year.

4 Letter 57 starts with, This year we must
5 exchange the gas meter at the property you
6 have -- to have it tested for accuracy. Okay?

7 Nicor's offense under Section 280.1302,
8 utility can discontinue service only after it has
9 mailed or delivered or by other means written
10 notice of discontinuances substantially in the
11 form of Appendix A.

12 Any notice required to be delivered or
13 mailed to the customer prior to continuation of
14 service shall be delivered or mailed separately
15 from any billing. Such service shall not be
16 discontinued until at least five days after the
17 delivery or eight days after mailing this notice.

18 This ruling -- rule is set to protect
19 Nicor from nonpaying customers, where Nicor would
20 continue to incur a loss for nonpayment if Nicor
21 did not act in a timely manner.

22 Jakubik's instance is for a program

1 meter exchange where there was no urgency to
2 exchange. But the time frame was one year.

3 As to the Village of Mount Prospect,
4 Nicor knew or should have known that the Village
5 of ordinance preventing an owner from an
6 apartment building in the Village from
7 immediately allowing the disruption of gas
8 service due to a meter exchange.

9 Apartment Rules -- and that's -- I'm
10 referring to the Village ordinances for tenant
11 occupancy. Section 23.1806 and 1811, the
12 landlord must give tenant reasonable notice
13 before he or she may enter the unit. Jakubik did
14 not know of Nicor's intention to disrupt the gas
15 service; and when Jakubik found out, the service
16 was interrupted. He had no way to notify the
17 tenants as provided by Mount Prospect ordinance.

18 The complainant Jakubik is a real estate
19 broker traveling throughout the county to meet
20 with customers and clients to sell real estate
21 and is not always immediately available to
22 respond to the disruption of gas service without

1 notification.

2 Jakubik is not trained in the workings
3 of this court.

4 And that's that.

5 JUDGE DOLAN: Okay. Ms. Naumer.

6 MS. NAUMER: Thank you, your Honor.

7 OPENING STATEMENT

8 BY

9 MS. NAUMER:

10 Initially, I think it's important for
11 the Commission to bear in mind exactly what the
12 issue of the complaint is. And the issue as it
13 has been set forth in the complaint is that with
14 regard to two different instances, Mr. Jakubik
15 who is the -- who is the customer of record on
16 the account was not provided with notice of the
17 two interruptions of service.

18 The record will show -- the evidence
19 will show today that with respect to both of the
20 two occurrences, the first of which was a meter
21 exchange made pursuant to Nicor's sampling meter
22 program, which is a program that is prescribed

1 and authorized by the Commission in which Nicor
2 is required to undertake on an annual basis.

3 The record will reflect that the
4 Commission has not enacted any regulations with
5 regard to customer notification that relate to
6 the sampling meter programs that the Commission
7 authorizes.

8 The second instance was in relation to
9 an emergency situation, a report of a gas leak at
10 the subject premises. And the Commission also
11 does not prescribe any regulations that impose
12 upon Nicor notice requirements in emergency
13 situations.

14 So the first point is that there are not
15 any Commission regulations with regard to notice
16 in either of the two instances that Nicor was
17 required to abide by.

18 Nonetheless, the evidence will also show
19 with regard to the first instance, the meter
20 exchange program, that Nicor did, in fact,
21 provide the customer of record, Mr. Jakubik, not
22 only reasonable notice but you will hear opinion

1 testimony today that the notice was, in fact,
2 above and beyond what would be considered
3 reasonable by a reasonable person in the conduct
4 of his own affairs.

5 Nicor sent two letters to Mr. Jakubik's
6 attention at his address of record. The first
7 one occurring on July 30th, the second on August
8 8th, which escalated in the urgency of the
9 response that was required encouraging
10 Mr. Jakubik, prompting him to respond to set up a
11 time for Nicor to conduct the meter exchange.

12 Mr. Jakubik failed to take action in
13 response to either of those letters to arrange
14 with his tenants to set up a time that be would
15 be reasonable for Nicor to access their premises,
16 to conduct its meter exchange program.

17 Following those two letters, Nicor
18 provided further notice by actually placing a
19 physical posting on the subject premises, and
20 that occurred on August 9th. The testimony will
21 reflect that this is a 8 and a half by 11 sheet,
22 bright yellow, a piece of paper that is posted to

1 the entry of the premises. And that should have
2 provided reasonable notice as well.

3 Following that, there was still no
4 response from Mr. Jakubik. So, a personal phone
5 call was made to his business telephone number
6 and a message was left. Still no response.

7 Nicor needed to conduct the meter
8 exchange. You heard in Mr. Jakubik's opening
9 statement that this was not an urgent matter,
10 that Nicor had a year to do that. Mr. Jakubik is
11 incorrect in his representations in that regard.

12 The Commission -- the sample meter
13 program is a program that is conducted annually.
14 However, there are many stages to the program.
15 It takes a year to complete it, and internal
16 deadlines have to be set up for each phase of the
17 program so that the annual one-year deadline that
18 the Commission sets can be met.

19 If you wait for the entire year to do
20 everything, Nicor is not going to be able to
21 comply with the Commission's one-year deadline.
22 So Mr. Jakubik is incorrect that this is

1 something that was not under a deadline that
2 needed to be done.

3 Nicor did need to do it. They provided
4 Mr. Jakubik four means of notice prior to doing
5 it. In addition, when they actually went to do
6 it, prior to actually making the meter exchange,
7 they spoke with the tenants who were available.
8 So the tenants knew what were happening. They
9 knew what was going on.

10 The evidence will reflect that this is
11 reasonable notice. It is more notice than is
12 necessary; and, in fact, once again, the
13 Commission doesn't prescribe any notice
14 requirements; so the evidence will not show that
15 Nicor acted outside of the Commission's
16 regulations in conducting its meter exchange.

17 With regard to the second instance, the
18 emergency report of a reported gas leak. Once
19 again, the Commission does not prescribe notice
20 requirements when responding to an emergency.

21 You will hear testimony today as of
22 exactly what occurred on Nicor's behalf in

1 responding to this emergency. You will also hear
2 opinion testimony that it is not appropriate for
3 Nicor to provide notification of the type that
4 Mr. Jakubik is requesting in its response to the
5 emergency.

6 And when I say the type Mr. Jakubik is
7 requesting, he has stated, I believe, in his
8 complaint and throughout this proceeding that
9 Nicor should have telephoned him to let them know
10 that they were on their way to respond to the
11 emergency. And you will hear testimony that it
12 is not appropriate to provide such notification
13 in response to an emergency.

14 Once again, the Commission does not
15 prescribe notification requirements for emergency
16 response. It doesn't do so for good reason. In
17 accordance with the opinion testimony that you
18 will hear today. And the evidence will not and
19 simply cannot show that Nicor violated any
20 Commission regulation by not providing notice to
21 Mr. Jakubik in responding to the emergency
22 situation.

1 In response to -- looking back at
2 Mr. Jakubik opening statement, there's -- let me
3 just see. There's a couple of things.

4 Number one, he references a Section
5 280.130. As a matter of law, that does not apply
6 to the presence situation. That section of the
7 Commission's regulations is prescribed for
8 discontinuance of service for nonpayment of
9 customers. Neither of these situations were for
10 nonpayment, as Mr. Jakubik himself has admitted.

11 The first one was for the sample meter
12 exchange, and the second one was in response to
13 an emergency situation. So the code section that
14 Mr. Jakubik cites is not applicable.

15 In regard to his statement that the
16 Village ordinance prevents him from entering the
17 apartment except for upon reasonable notice, once
18 again, Nicor provided its first notice on
19 July 30th. The meter exchange did not occur
20 until August 15th. So Mr. Jakubik had 15 days to
21 speak with his tenants and arrange for a time, a
22 mutually acceptable time, for him to tell Nicor

1 for this to take place.

2 The only reason that the meter exchange
3 took place without him doing so, is that he
4 failed to take any action on his own behalf to
5 accomplish that. So had he, in fact, responded
6 to Nicor's notices, he would have also satisfied
7 his obligations to the Village of Mount Prospect.

8 As to his representation that Nicor has
9 no authority to speak with the tenants in his
10 building, I would -- number one, that's a legal
11 issue that witnesses should not be testifying to
12 here to today. However, Mr. Jakubik cites no
13 authority for that; and, number two, his tenants
14 are the users of the gas. I would find it very
15 hard to believe that this Commission would not
16 want Nicor to communicate with the actual people
17 who are utilizing the gas service when they go
18 out to discontinue, that they should ignore them
19 as they go about their business and not provide
20 them notice.

21 The fact of the matter is that that was
22 the fifth notice that was provided to the

1 premises, Nicor's field workers actually speaking
2 with the tenants when the exchange took place, so
3 that they would know what was happening with
4 their gas service.

5 I think the Commission would want that
6 communication to occur. There is nothing at law
7 that prevents Nicor from speaking with any
8 citizen within the state about any matter. It's
9 just -- there is no legal prohibition on Nicor
10 from doing that.

11 And, let's see, the fact that
12 Mr. Jakubik is not trained in the working of this
13 court should be irrelevant to the resolution of
14 this matter on the merits.

15 And, finally, your Honor, Mr. Jakubik
16 bears the burden in this case. And I think
17 that's very important to keep in mind as we hear
18 the evidence today. Mr. Jakubik is the
19 complainant. He must set forth evidence that
20 satisfies or that proves his allegations by a
21 preponderance of the evidence. And if he does
22 not, which he will not, this Commission must deny

1 his complaint.

2 JUDGE DOLAN: Thank you.

3 Mr. Jakubik, just before we get started,
4 I just wanted to know, do your tenants pay their
5 own gas bills or is that included as part of the
6 rent?

7 MR. THOMAS JAKUBIK: It's included as part of
8 the rent.

9 JUDGE DOLAN: All right. Go ahead and
10 proceed.

11 MR. THOMAS JAKUBIK: Far as her comment about
12 the ordinance, the ordinance or the
13 administrative things that -- deposits, payments,
14 practices and discontinuance of the service is
15 not specific to nonpayment as far as the order to
16 give notice.

17 JUDGE DOLAN: Okay. Go ahead and present your
18 case, Mr. Jakubik.

19 (Witness previously sworn.)

20 THOMAS A. JAKUBIK,
21 having been called as a witness herein, after
22 having been first duly sworn, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 BY

4 MR. THOMAS JAKUBIK:

5 On August 3rd, '03, Jakubik took flight
6 to -- 253 United to the Denver -- to Denver for a
7 business meeting. On August 10th, '03, Jakubik
8 took a flight, No. 270, United back from Denver.

9 Jakubik's -- during Jakubik's meeting in
10 Denver, a relative passed away and a wake was
11 held on August 12th in Mount Prospect, Illinois.
12 On August 13th, the funeral was held in Mount
13 Prospect.

14 Upon my return to the office and opening
15 my mail, I read a letter from Nicor stating they
16 wished to exchange the gas meter at 1711
17 Victoria, Mount Prospect. Only one letter was
18 received. That was similar to Nicor's letter 57
19 that states, Within a year, they'd like to
20 exchange a meter.

21 Let's see where are we here? Only one
22 letter received, like Nicor's 57. No other

1 letter was received and no telephone messages
2 were left on the telephone equipment from Nicor.

3 Before I could contact Nicor, I received
4 a call from one of my tenants that stated there
5 was no hot water. I went to the building to find
6 a blue tag on the -- stating that Nicor has
7 turned off the gas.

8 That's the only notification that I ever
9 received.

10 JUDGE DOLAN: And what date is this,
11 Mr. Jakubik?

12 MR. THOMAS JAKUBIK: August 5th?

13 Whenever I got the call.

14 JUDGE DOLAN: Well, I do need to know the date
15 just because it's your burden to prove.

16 MR. THOMAS JAKUBIK: Okay.

17 Or about August 15th.

18 JUDGE DOLAN: Okay.

19 BY MR. THOMAS JAKUBIK:

20 I immediately contacted Nicor to
21 investigate the interruption of gas service, and
22 was informed that they would not return until the

1 tenants were home.

2 I explained to them that it was an
3 apartment building and had no idea when the
4 tenants would return. I also stated that because
5 of the -- my just purchasing the building, I
6 don't always have keys to all the apartments.

7 After several calls, Nicor agreed to go
8 to the building and wait. At approximately
9 7:00 p.m., a Nicor agent contacted me by my cell
10 phone to request I come to assist them in the
11 relight.

12 Together we gained access to the six
13 apartments. So Nicor had both my business
14 telephone number and my cell phone. I did not
15 retain any letter I received from Nicor, since I
16 did not believe that Nicor would attempt to,
17 again, interrupt my gas service in my lifetime.

18 Shall I go on to the second occurrence?

19 MS. NAUMER: That's fine. I mean, our
20 witnesses were planning on doing them one after
21 another.

22 JUDGE DOLAN: Okay. That's fine. Go ahead,

1 then. I was just going to see if they wanted to
2 cross you on the first occurrence.

3 BY MR. THOMAS JAKUBIK:

4 Okay. On October 24th, I received a
5 telephone call at about 4:00 p.m. from one of my
6 tenants. There was no hot water -- no heat or
7 hot water.

8 Again, I contacted Nicor and was told
9 that they would not again -- did not only regain
10 the gas service -- they'd only returned the gas
11 service if they were home. At no time did Nicor
12 attempt to contact me either by telephone,
13 office, cell, period.

14 JUDGE DOLAN: That's it on the second
15 occurrence?

16 MR. THOMAS JAKUBIK: Yes.

17 JUDGE DOLAN: Did you have any conversations
18 with anybody at all concerning the second
19 occurrence?

20 MR. THOMAS JAKUBIK: Well, I called Nicor
21 because they never tell you why they discontinued
22 the service. They just discontinue the service.

1 And, again, they just state they're not
2 coming out unless everybody is there, and there
3 wasn't anything on that building when I went to
4 that building as far as there was no messages,
5 notes, amber letters, 8 and a half by 11 yellow
6 copies. There was nothing on that front door.

7 JUDGE DOLAN: Okay. And this again --

8 MR. THOMAS JAKUBIK: On both occurrence when I
9 went there, except for the second occurrence.
10 There was a small blue tag. There was never a
11 yellow, blue, orange tag, since I'm at this
12 building about every three days.

13 JUDGE DOLAN: And that was October 24th of
14 '02?

15 MR. THOMAS JAKUBIK: Correct.

16 JUDGE DOLAN: All right.

17 Cross-examination?

18 MS. NAUMER: Yes.

19 CROSS-EXAMINATION

20 BY

21 MS. NAUMER:

22 Q. Mr. Jakubik, just -- given the importance

1 of the notification, could you restate what your
2 business mailing address is?

3 A. 1125 W-e-i-l-a-n-d Road, Buffalo Grove,
4 Illinois 60089.

5 Q. And what is your business phone number?

6 A. (847) 353-7653 or (847) 634-6200.

7 Q. What is that latter number?

8 A. That's another telephone number.

9 Q. That also goes to your office?

10 A. Uh-huh.

11 Q. The first one does as well, though?

12 THE COURT REPORTER: Is that a yes or a no?

13 THE WITNESS: Yes.

14 BY MS. NAUMER:

15 Q. And, Mr. Jakubik, I believe you have
16 represented previously that -- the first number
17 you stated, the (847) 353-7653, that number is
18 something that can be called 24 hours. You have
19 an answering machine attached to it?

20 A. Yes. It's a full answering machine,
21 correct.

22 Q. Okay. Available 24 hours?

1 A. Seven days a week.

2 Q. Okay. Mr. Jakubik, how often do you
3 travel on business?

4 A. Three times a year.

5 Q. Three times a year. Okay.

6 You own the subject premises, the 1711
7 West Victoria, Mount Prospect; correct?

8 A. Yes.

9 Q. Okay. And that's a six-unit apartment
10 building?

11 A. That's correct.

12 Q. And how long have you owned the building?

13 A. Four years now, maybe.

14 Q. Okay. Gas service has been in your name
15 since you purchased the building?

16 A. Correct.

17 Q. Okay. So when you originally set up your
18 gas account, you would have given the 1125
19 Weiland Road address?

20 A. That's correct.

21 Q. And you would have also given the same
22 telephone number, the (847) 353-7653?

1 A. Or the second number.

2 Q. Okay. How often do you visit the -- and

3 I'm going to refer to it from now on as the

4 subject premises but I'm referring to the 1711

5 West Victoria, Mount Prospect.

6 A. Yes.

7 Q. Can you tell me -- can you give me an

8 estimate of how often -- how regularly you visit

9 the premises?

10 A. Maybe every four days.

11 Q. Every four days. Okay.

12 And what do you do when you are

13 traveling out of town to make sure that the --

14 your duties as the landlord to that building are

15 taken care of? Do you hire an assistant?

16 A. I have contractors.

17 Q. Okay. And what do the contractors do?

18 A. Whatever I ask them to do.

19 Q. So, for instance, they would check your

20 mail to see if you got a notice from the gas

21 company?

22 A. No.

1 Q. They would not. Okay.

2 Would they listen to your messages on

3 your answering machine at your business?

4 A. I do that.

5 Q. Okay.

6 A. From anywhere in the world.

7 Q. Okay. Do they visit the subject premises?

8 A. Only on request.

9 Q. On your request?

10 A. Yes.

11 Q. Okay. When you were out of town -- it

12 looks like you were out of town from August 3rd

13 to August 13th.

14 Did you have a contractor on hire during

15 that time period?

16 A. Yes.

17 Q. What was his name or her name?

18 A. Well, they're by the jobs that the

19 tenants -- it's not a salary position. It's an

20 independent contractor position. So they only go

21 out when you call them.

22 Q. Who do you call?

1 A. Who do I call?

2 Q. Yes.

3 A. At that particular time?

4 Q. Yeah.

5 You're telling me you hired some

6 contractors, and I want to know who they are. I

7 want to know who are your contractors, who you

8 hired?

9 A. Who would I have contacted?

10 Q. I want to know --

11 A. I didn't contact anybody. I don't have --

12 this is not a salary position. This is a per job

13 position, independent contractor positions. They

14 don't go out there and look at it just to look at

15 it. It's a six-unit apartment building. They

16 only go there for a specific reason to do a

17 specific repair.

18 Q. Right. I understand that they only visit

19 the subject premises if you request them to do

20 so.

21 A. Correct.

22 Q. But my question is who was the person that

1 you hired as your contractor during this time
2 period, the August 3rd to the August 13th? What
3 was his or her name?

4 A. I did not have a request for any
5 contractor to go out there; so I wouldn't have
6 hired one.

7 Q. So you didn't have anyone on hire to do
8 any functions during the --

9 A. There was no repairs at that building at
10 that time, correct.

11 Q. Okay. So when you -- when you're talking
12 about a contractor, somebody that you hire in
13 your absence to look after your business, you're
14 talking about somebody who would go out and make
15 a repair to a building?

16 A. Correct.

17 Q. You're not talking about somebody that you
18 hire to manage your day-to-day affairs while
19 you're out of town?

20 A. Correct. I do that myself.

21 Q. Okay. Mr. Jakubik, in your complaint, you
22 stated that the time of the first interruption

1 was June 3rd, I think it is.

2 A. I amended the complaint.

3 Q. Well, I don't think I ever received an

4 amended complaint.

5 A. Well, you should have. There is an

6 amended complaint out there that changes that to

7 August that makes it correct.

8 Q. At what time did you amend it? Can you

9 give me a time frame?

10 A. 12/9/03. It was distributed to everyone

11 by U.S. Mail.

12 Q. Why did you originally believe that the

13 interruption occurred on June 3rd?

14 A. Because I mistakenly confused it with

15 another trip when I was out of town.

16 Q. And where did you go during the June trip?

17 A. Colorado.

18 Q. Was that a personal vacation?

19 A. No. It was a business vacation.

20 Q. What occurred that refreshed your memory

21 that it was actually the August interruption

22 rather than June?

1 A. When I read these documented that you
2 provided.

3 Q. So you agree with the documents that they
4 accurately reflect the time of the interruptions?

5 A. Correct.

6 Q. Mr. Jakubik, you receive your bills for
7 gas to the subject premises; don't you?

8 A. No. They're received at 1125 Weiland
9 Road, Buffalo Grove, Illinois.

10 Q. And get those every month?

11 A. I get many every month.

12 Q. And you pay them every month?

13 A. That's correct.

14 Q. Okay. I'm not sure exactly how to
15 interpret your statements in regards to the
16 letter that you did receive. You didn't
17 maintain -- you didn't retain a copy of that?

18 A. The first and only letter received, no, I
19 did not.

20 Q. Okay. But you did receive one?

21 A. That's correct.

22 Q. And per your testimony, you received it

1 when you returned from your August 3rd trip?

2 A. Correct.

3 Q. You were provided with letter number 57 in

4 discovery of this matter?

5 A. Uh-huh.

6 Q. Do you agree that letter number 57 is the

7 one that you received?

8 A. I can't say it's exactly, but similar,

9 yes.

10 Q. It's similar.

11 Do you recall anything that would be

12 different about this from the one that you recall

13 receiving?

14 A. No. The idea was to give you a call,

15 correct.

16 Q. You had represented in earlier hearings in

17 this matter that the letter you received provided

18 you with a 30-day time frame to contact the

19 company. Do you recall --

20 A. Yes.

21 Q. -- making those statements?

22 A. Uh-huh.

1 Q. Does this letter contain a 30-day time
2 frame for you to contact the company?

3 A. No, but I said it was similar.

4 Q. You also said that you didn't see any
5 differences in it that you could recall?

6 A. My statement was that the letter is
7 similar to the one that I received.

8 Q. Okay. I'm trying to --

9 A. Okay? And when I stated there was a
10 30-day -- there was time frame -- there was a
11 time frame, that I recall, because I don't have
12 the letter, that I recall -- basically, the
13 letter did not have an urgency at any point where
14 any reasonable person would believe that there
15 would be a disruption of gas service.

16 The letter clearly states that within
17 the year, the gas company wished to have the gas
18 meter exchanged. I was coming back from a
19 meeting and a funeral.

20 MS. NAUMER: Okay. Your Honor, there's not a
21 question pending at this point.

22 THE WITNESS: Okay.

1 BY MS. NAUMER:

2 Q. Mr. Jakubik, with regard to the second
3 interruption, you stated that you did not know
4 what the cause of the interruption was. I guess
5 you didn't know that there was a gas leak?

6 A. Correct.

7 Q. Because you weren't at the subject
8 premises when your tenant called that in;
9 correct?

10 A. Correct.

11 Q. When did you learn that it was a gas leak?

12 A. When did I learn -- after calling Nicor --
13 wait a minute. I never knew it was a gas leak.
14 All I knew is that they disconnected the gas.
15 I found out it was regulator, finally,
16 after serving you with notices of information.
17 It's the only time I ever found out why you were
18 at my building.

19 When I had you in court, that's when I
20 found out. Your attorney testified to the
21 judge --

22 MS. NAUMER: Once again, there is no question

1 pending.

2 BY MS. NAUMER:

3 Q. But it's your position here today, knowing
4 that there was as gas leak, that the company
5 should have provided you with a telephone call
6 either to your home, to your office, to your cell
7 phone to let them know that you were -- to let
8 you know that they were on their way over in
9 response to the reported leak?

10 A. Yes. That would be a very reasonable
11 thing.

12 Q. Okay. And you've owned the building for
13 about four years now. So, let's see, that puts
14 us that you would have purchased the building in
15 2000?

16 A. Maybe '79, somewhere in there.

17 Q. You mean '97?

18 A. Or '97, excuse me.

19 Q. So you purchased the building in 1997?

20 A. No. 1999. Somewhere in that range.

21 MS. NAUMER: I have nothing further, your
22 Honor.

1 JUDGE DOLAN: Okay. It's kind of awkward, but
2 I guess -- normally, how it works is you get an
3 opportunity to present any other -- you know,
4 usually you say redirect; but since you're
5 testifying on your own, is there anything else
6 you want to add before we move on?

7 MR. THOMAS JAKUBIK: Not at this time, no.

8 JUDGE DOLAN: Okay. Do you have any other
9 witnesses?

10 MR. THOMAS JAKUBIK: No, I don't.

11 JUDGE DOLAN: Okay. Then we can -- we'll just
12 introduce all the exhibits at the end, if that's
13 fair to you.

14 MS. NAUMER: Okay.

15 JUDGE DOLAN: All right. You're going to
16 rest.

17 MR. THOMAS JAKUBIK: Yes.

18 JUDGE DOLAN: Go ahead, Nicor.

19 MS. NAUMER: Your Honor, the first witness
20 that I would like to call is Mr. Tom Moretti.

21 JUDGE DOLAN: Okay. Sir, would you raise your
22 right hand.

1 (Witness sworn.)
2 THOMAS M. MORETTI,
3 having been called as a witness herein, after
4 having been first duly sworn, was examined and
5 testified as follows:
6 DIRECT EXAMINATION
7 BY
8 MS. NAUMER:
9 Q. Would you please state your name and spell
10 your last name for the record.
11 A. My name is Thomas M. Moretti. Last name
12 is spelled M-o-r-e-t-t-i.
13 Q. Who are you employed by?
14 A. I work for Nicor Gas.
15 MS. NAUMER: I would like the record to
16 reflect that from here on now a reference to
17 Nicor Gas, Nicor or the company is all referenced
18 to Nicor Gas Company.
19 JUDGE DOLAN: Okay.
20 BY MS. NAUMER:
21 Q. Is it your understanding that Nicor is a
22 public utility authorized to provide service by

1 the Commission?

2 A. Yes, it is.

3 Q. What capacity are you employed by Nicor?

4 A. My job duties are customer relations

5 manager.

6 Q. And how long have you had the position of

7 customer relations manager?

8 A. As a newly created position, I've been

9 there for five months now.

10 Q. What are your responsibilities?

11 A. My primary tasks are to handle and process

12 Illinois Commerce Commission complaints.

13 Q. Okay. So you're aware of Mr. Jakubik's

14 complaint?

15 A. Yes, I am.

16 Q. And did you conduct an investigation into

17 the subject of his complaints in your capacity as

18 the consumer relations manager?

19 A. Yes, I did.

20 Q. And you're aware that the subject of his

21 complaint is two interruptions of gas service to

22 1711 West Victoria in Mount Prospect?

1 A. That's correct.

2 Q. Is it your understanding that the name on
3 the gas service account to that premises is
4 Mr. Jakubik's?

5 A. Yes, it is.

6 Q. And do you know what type of a building it
7 is?

8 A. I believe it's a six-unit apartment
9 building.

10 Q. And is it your understanding that
11 Mr. Jakubik is the landlord?

12 A. Yes.

13 Q. Is it also your understanding that the
14 first interruption of service that's the subject
15 of this complaint related to Nicor's sample meter
16 exchange program?

17 A. I do.

18 Q. Okay. I would like to talk with you for a
19 little bit about the first interruption.

20 MS. NAUMER: Your Honor, would you like me to
21 give the court reporter copies now even though we
22 are introducing them at the end?

1 JUDGE DOLAN: Do you care?

2 THE COURT REPORTER: No.

3 JUDGE DOLAN: No. We can just do them at the
4 end.

5 MS. NAUMER: Okay.

6 BY MS. NAUMER:

7 Q. Mr. Moretti, I'm handing you what has been
8 previously marked as Nicor Exhibit 1. Do you
9 recognize that document?

10 A. Yes, I do.

11 Q. What is it, please?

12 A. It is the Section 500.215 of the sample
13 section of the code.

14 Q. And is it your understanding that that is
15 a Commission -- this is a Commission regulation?

16 A. That is correct.

17 Q. Do you know whether this was created by
18 the Commission or by Nicor?

19 A. Created by the Commission.

20 Q. And do you know what process the
21 Commission follows in creating this regulation?

22 A. It goes through a hearing process

1 promulgated through -- based on the Public
2 Utility Act and other statutes.

3 Q. And does that process include the
4 involvement of any interested parties as well as
5 the Commission staff?

6 A. That's correct.

7 Q. And at the end of rule-making, does the
8 Commission approve or perhaps change, modify, and
9 then approve the regulation?

10 A. They can.

11 Q. Does the Illinois General Assembly approve
12 the Commission's regulations?

13 A. That's correct.

14 Q. I understand that you are not an attorney,
15 and I'm not asking you for your legal opinion.
16 But as somebody who is in the business and
17 employed by Nicor Gas Company, is it your
18 understanding that the Commission's regulations
19 have the force and effect of law?

20 A. That's correct.

21 Q. Okay. And so these regulations govern the
22 sample testing of the meters?

1 A. That is correct.

2 Q. Okay. Is it your understanding that this
3 is all of the Commission's regulations with
4 regard to the sample testing of the meters, or
5 are there other regulations that apply?

6 A. This section is the only section I'm aware
7 of that governs sample testing.

8 Q. Okay.

9 MS. NAUMER: Your Honor, at this point in
10 time, I would like to ask the witness to publish
11 certain sections of the regulation. I would like
12 him to read certain sections.

13 JUDGE DOLAN: All right.

14 BY MS. NAUMER:

15 Q. Mr. Moretti, would you please read the
16 first sentence of the regulation.

17 A. Section 8 here?

18 Q. Yes.

19 A. A utility may at its option and upon
20 giving notice to the Commission adopt scientific
21 sample procedures for new and in-service meters.

22 Q. Do you know whether Nicor has given the

1 Commission notice at its own option to adopt
2 sample procedures for the testing of in-service
3 meters?

4 A. Nicor has done that.

5 Q. Okay. I would like you to read through
6 that, the code regulation that's marked as
7 Exhibit 1. And would you let me know whether
8 there are any customer notice requirements that
9 are set forth.

10 A. There are no customer notice requirements
11 within this section.

12 Q. Okay. And just for clarity purposes, does
13 that mean that there are no time frames for
14 customer notices set forth?

15 A. There are no time frames.

16 Q. And are there any provisions that set
17 forth a certain form of notice, for example,
18 mailing or a posting on the door?

19 A. No, there are not.

20 Q. What are the -- reading through this,
21 reading through this regulation, what is your
22 understanding of the main requirements that the

1 Commission imposes for meter sampling programs?

2 A. The main requirement is that the utility
3 would conduct a sample that would meet a random
4 sampling approved procedure. In this case, the
5 inspection Level II of the Military Standards.
6 In addition, it also looks for accuracy
7 requirements.

8 Q. Okay. And it requires -- is it your
9 understanding that it requires the company to
10 perform a chi-square test every year to ensure
11 the random test of the sample?

12 A. Yes, it does.

13 Q. Okay. What is the Military Standard, in
14 particular inspection Level II of Military
15 Standard 105-D of the Department of Defense that
16 you referenced?

17 A. That's a generic sampling procedure.

18 Q. Is it your understanding that that is a --
19 that sets forth the statistical standard for
20 sampling?

21 A. Yes, it does.

22 Q. And does that document contain notice --

1 customer notice requirements?

2 A. No, it does not.

3 Q. And it's your understanding that the
4 reason that it does not is that it's a generic
5 statistical standard that does not necessarily
6 apply to this type of a situation, a gas service
7 situation?

8 A. That's correct.

9 Q. Okay. In other words, am I correct in
10 characterizing it that people could use the
11 statistical standard for all sorts of different
12 sampling process?

13 A. Correct. That is correct.

14 Q. And, again, you stated that the Commission
15 does not set forth any other requirements with
16 regard to the sampling?

17 A. That's correct.

18 Q. Mr. Moretti, I'm handing you what has been
19 previously marked Nicor Exhibit 2.

20 Do you recognize that document?

21 A. Yes, I do.

22 Q. And what is it?

1 A. It is a notification to the Commission
2 about a change in our meter sampling procedure.

3 Q. What is the date on the document that it
4 was written?

5 A. It was written on October 27th, 1993.

6 Q. To whom was it sent?

7 A. It was addressed to Ms. Donna M. Caton,
8 C-a-t-o-n, chief clerk, Illinois Commerce
9 Commission.

10 Q. Do you know who the letter is from?

11 A. The letter is from Lynwood S. Valor,
12 V-a-l-o-r, manager of measurement, who at the
13 time was with us at Nicor Gas.

14 Q. Does the document also bear a date and
15 time stamp from the Illinois Commerce Commission
16 chief clerk's office?

17 A. It does. The date time stamped is
18 October 28th, 12:32 p.m., 1993.

19 Q. Mr. Moretti, I would ask you to read the
20 first full paragraph and the first sentence of
21 the second paragraph for the record, please.

22 A. Northern Illinois Gas Company by this

1 letter is informing the Commission that it
2 intends to change to multiple meter sampling
3 procedures beginning with the calendar year 1994.
4 The company has been following a single sampling
5 procedure for its meter sampling program. These
6 procedures are in accordance with the American
7 National Standard Institute, ANSI, A-N-S-I, and
8 the American Society for Quality Control,
9 A-S-Q-C, guidelines. Both the single and the
10 multiple sampling procedures are referred to and
11 fully described in ANSI, slash, ASQC, Z1.4-1981
12 publication, quote, sampling procedures and
13 tables for inspection by attributes, close quote.
14 The company for the calendar year 1994 will begin
15 using the multiple sampling plan as describe in
16 previously mentioned publication.

17 Q. Could I also ask you to read the first
18 full paragraph on the second page of the letter.

19 A. All sampling -- all sample testing
20 procedures will continue to be in accordance with
21 inspection Level II of the Military Standard
22 105-D of the Department of Defense at an

1 acceptable quality level of 6.5 percent. The
2 company will also at least annually prepare a
3 chi-square test to verify the randomness of the
4 sampling.

5 Q. Is it your understanding and, in fact,
6 your opinion that this letter satisfies the
7 Commission's requirements set forth in Section
8 500.215 of its regulation?

9 A. It is my understanding, yes.

10 Q. Given Nicor's filing of this letter with
11 the Commission's chief clerk, is it your
12 understanding that Nicor was fully authorized by
13 this Commission to conduct sample meter testing
14 program?

15 A. That's correct.

16 Q. And is it also your understanding that
17 notice requirements are not part of the
18 authorized program?

19 A. That's correct. All its requirements are
20 not part.

21 Q. Mr. Moretti, I'm handing you what has been
22 marked Nicor Exhibit 3.

1 Do you recognize this document?

2 A. Yes, I do.

3 Q. And what is it?

4 A. This is a receipt of acknowledgment from
5 the chief clerk's office of the ICC.

6 Q. What is the date of the document?

7 A. The date on the document is November 1,
8 1993.

9 Q. And who is it addressed to?

10 A. It's addressed to Donna -- to Lynwood S.
11 Valor, excuse me, manager of measurement Nicor
12 Gas for Northern Illinois Gas Company.

13 Q. And who is it from?

14 A. From Donna M. Caton.

15 Q. Is it, in fact, on ICC letterhead?

16 A. It is.

17 Q. Mr. Moretti, would you please read the
18 substantive paragraph on this letter?

19 A. It says, Receipt is acknowledged of the
20 original report concerning changes in meter
21 sampling procedure filed October 28th, 1993, on
22 behalf of Northern Illinois Gas Company in the

1 above matter.

2 Q. Is it your understanding that this letter
3 confirms that Nicor's notice to the Commission of
4 its sample meter testing program was, in fact,
5 accepted and filed?

6 A. That's correct.

7 Q. Did Nicor, in fact, begin to engage in the
8 sample meter testing program set forth in
9 Exhibit 2 beginning in 1994?

10 A. That's correct.

11 Q. Has the Commission or the Commission's
12 staff ever told Nicor that it could not engage in
13 the sample testing program?

14 A. No.

15 Q. In fact, is it your understanding that the
16 Commission and its staff have fully authorized
17 Nicor to conduct this program?

18 A. That's correct. They have.

19 Q. And this is a random sampling program?

20 A. Correct.

21 Q. So is it also your understanding that the
22 customer meters that are selected to be part of

1 the program are randomly selected?

2 A. That's correct.

3 Q. And in this instance, was the meter that

4 is located at 1711 Victoria Drive in Mount

5 Prospect selected for the year 2002?

6 A. That's correct.

7 Q. Is the program an annual program?

8 A. Yes, it is.

9 Q. Does that mean that there is a year

10 deadline that the Commission imposes?

11 A. Yes. Well, it's part of the -- you have

12 to get it done in one year.

13 Q. In one year.

14 And the program consists of several

15 phases?

16 A. Correct.

17 Q. So Nicor has to complete each phase in

18 such a timely manner as to complete the entire

19 program within the one-year deadline; is that

20 correct?

21 A. That is correct.

22 Q. Does the company set internal deadlines to

1 ensure that it complies with the annual deadline?

2 A. Yes, it does.

3 Q. And in your opinion, can the company

4 forego internal deadlines and still be ensured

5 that it will meet the one-year annual deadline?

6 A. No. It's the company's position that we

7 need to meet these internal deadlines so we can

8 complete the sample in time.

9 Q. Mr. Moretti, I'm handing you what has been

10 marked as Nicor Exhibit 4.

11 Do you recognize this document?

12 A. Yes, I do.

13 Q. What is it?

14 A. It's what we call letter number 57.

15 Q. Does it have a customer name and address

16 on it?

17 A. This particular document does not.

18 Q. And is that because this is a form letter?

19 A. This is a form letter.

20 Q. What does the phrase "form letter" mean?

21 A. It's a letter, generic letter that we send

22 out to customers in the sampling program.

1 Q. And does that mean the computer
2 automatically includes the correct -- or the
3 customer name and address from the accounts this
4 letter is being sent to as it is -- as they are
5 generated and sent?

6 A. That's correct.

7 Q. Is this document utilized in Nicor's
8 regular course of business?

9 A. Yes, it is.

10 Q. Could you read the context of the letter,
11 please.

12 A. Dear, Sir, or Madam, this year we must
13 exchange the gas meter at your property to have
14 it tested for accuracy. This procedure is safe
15 and can be completed within 30 minutes. It will
16 be necessary for us to gain access to your
17 property for the purpose of relighting,
18 conducting a safety check and adjusting your
19 appliances, if necessary. This procedure will
20 not affect your gas regulator and is completed at
21 no charge. Please note, this is a standard
22 procedure required by law. Please telephone

1 1-888-NICOR4U, parens, 1 (888) 642-6748, close
2 paren, to set up an appointment at your
3 convenience or contact our scheduling department
4 via the Internet at www.nicor.com/mx. Sincerely,
5 Nicor Gas meter exchange department.

6 Q. So, does this document inform the customer
7 that action is going to be taken with respect to
8 their meter?

9 A. That is -- is it stated that we need to
10 get to do a meter exchange; correct.

11 Q. Okay. And it also states that Nicor needs
12 access to the property in order to re-initiate
13 the service after this action was taken?

14 A. That's correct.

15 Q. And re-initiation of service, is that
16 referenced as the relighting within the document?

17 A. That's correct.

18 Q. And does the document ask the customer to
19 contact Nicor?

20 A. Yes, it does.

21 Q. And does it provide several means for
22 customer to do so?

1 A. Yes, it does.

2 Q. Does it also indicate that the customer
3 should do so as soon as it is convenient?

4 A. That's correct.

5 Q. And in your opinion, what does that phrase
6 "as soon as it is convenient" mean?

7 A. We'd like to get them to call as soon as
8 possible so we could schedule an appointment.

9 Q. So, it doesn't mean that the customer
10 should wait for a year to get in touch with you?

11 A. Correct.

12 Q. And is it also your opinion that the
13 process set forth is intended to be convenient
14 for the customer?

15 A. Yes.

16 Q. Mr. Moretti, I'm handing you what has been
17 marked as Nicor Exhibit 5.

18 Do you recognize this document?

19 A. Yes, I do.

20 Q. What is it?

21 A. It's what we refer to as letter number
22 213.

1 Q. Is this also a form letter?

2 A. This is also a form letter for our meter
3 exchange program.

4 Q. Would the customer name and address on the
5 account be automatically generated by the
6 computer the same way it is for letter 57?

7 A. That's correct.

8 Q. Is this document utilized in Nicor's
9 regular course of business?

10 A. Yes, it is.

11 Q. Would you please read the text of the
12 letter.

13 A. We have been unable to reach you by mail
14 or phone about the meter exchange at your
15 property. Please contact us at the number above
16 as soon as possible to schedule a date for the
17 meter exchange to take place. Our service person
18 need access to your property for about 30
19 minutes. We'll turn off gas service, exchange
20 the meter and restore service including
21 relighting all appliances, pilot lights. There
22 will be no charge for this work. You must make

1 arrangement to allow us access to your property
2 and our meter. If you do not contact us
3 immediately to arrange a meter exchange, we'll be
4 forced to disconnect your natural gas service.
5 While we regret having to take this step, we will
6 need to turn off your natural gas service. If
7 you have already set up an appointment to have
8 your meter exchanged, please disregard this
9 letter. If you have not scheduled your meter
10 exchange, please call our office between
11 8:00 a.m. and 4:30 p.m. as soon as possible or
12 through the Internet at www.nicor.com/mx.

13 Q. In your opinion, what is important about
14 what's stated in this letter?

15 A. What's important is that we need to get in
16 to do the meter exchange and that it may result
17 in disconnection of gas service.

18 Q. Does this document also notify the
19 customer that they should contact Nicor to
20 schedule a time that's convenient for them as
21 soon as possible?

22 A. That's correct.

1 Q. Does it also inform them that if they do
2 not contact the company immediately that Nicor
3 will be forced to disconnect the natural gas
4 service?

5 A. That could occur, correct.

6 Q. And is language to that effect, in fact,
7 capitalized within the document?

8 A. It's in large print, yes.

9 Q. Does the process this letter set for the
10 customer to contact the company, is that process
11 in your opinion convenient for the customer?

12 A. Yes. It's worked over the years.

13 Q. Okay. Mr. Jakubik (sic), I'm handing you
14 what has been marked as Nicor Exhibit 6.

15 Do you recognize this document?

16 A. Yes, I do.

17 Q. What is it?

18 A. It is a notice of disconnection of gas
19 line posting document.

20 Q. Is this document utilized in Nicor's
21 regular course of business?

22 A. It is.

1 Q. This document does not have information
2 filled in on it. How does that information get
3 placed on the document?

4 A. An employee will check the appropriate
5 boxes when we post it to the premises or
6 building.

7 Q. Okay. For purposes of the record, could
8 you describe what color the document is?

9 A. Well, the document that we use in the
10 field is bright yellow.

11 Q. Okay. And what size is it?

12 A. It's 8 and a half by 11.

13 Q. Where does this get posted?

14 A. It's posted on the front door of the
15 apartment building or premises.

16 Q. Okay. Would you read what the first
17 options are -- would you just read what the
18 document states.

19 A. Sure. It says, To all tenants and
20 occupants, the gas services will be terminated
21 from the street for the building indicated below.
22 We regret any inconvenience this action may

1 cause. If you are renting this facility, please
2 discuss the pending termination with your
3 landlord or agent.

4 Then we have -- there's a box, we have
5 been denied access to, and it gives three
6 options, remove, read or exchange our meter,
7 inspect or repair our facility. And then there's
8 another category. There's also a box for
9 nonpayment for service. There's also an area for
10 unauthorized use or no customer of record.

11 Q. Mr. Moretti, with regard to those in
12 relation to a meter exchange what boxes would
13 have been checked?

14 A. We would have checked the box where it
15 says, We've been denied access to and then the
16 box, remove meter exchange.

17 Q. Okay. Could you read what the last area
18 of the document says.

19 A. It says, For further information, please
20 call the Nicor Gas department indicated. And we
21 have a number there with a checkmark by it. A
22 check box by it that we would have checked. And

1 then we would have at the bottom there, If you do
2 not contact, this service will be disconnected.

3 And we put a date on there.

4 Q. Okay. So in relation to the meter
5 exchange program, the third option would have
6 been checked, which reads meter reading
7 department and the phone number would have been
8 provided?

9 A. Well, in this case, I believe it would
10 have been customer care services.

11 Q. Which is the number that --

12 A. With the 888 number, right.

13 Q. And that's the number that's already
14 contained within the document?

15 A. That's correct.

16 Q. Okay. In your opinion, would this posting
17 be readily visible to somebody approaching the
18 premises?

19 A. Yes. We placed the document in a location
20 where we notice there was a lot of traffic.

21 Q. So --

22 A. Generally, that's the front door.

1 Q. So I'd be correct in characterizing it
2 that it would be placed in a permanent location?

3 A. Correct.

4 Q. And it does contain information to contact
5 the company?

6 A. Correct.

7 Q. It also clearly sets forth a disconnect
8 date within the document?

9 A. Correct.

10 Q. In your opinion, would that ensure prompt
11 customer action given that there is a disconnect
12 date set forth?

13 A. It has been an effective document, yes.

14 JUDGE DOLAN: Mr. Moretti, I just have a quick
15 question.

16 EXAMINATION

17 BY

18 JUDGE DOLAN:

19 Q. How much time in advance are these put on
20 before Nicor --

21 A. Generally, it's a minimum of five days.
22 It could be longer.

1 Q. So five days prior?

2 A. Minimum five, but they can be longer.

3 JUDGE DOLAN: Okay.

4 CONTINUED DIRECT EXAMINATION

5 BY

6 MS. NAUMER:

7 Q. Mr. Moretti, I'm sorry to jump around with

8 you on this. If you would take a look at what

9 was marked as Nicor Exhibit 1, which is the

10 Commission regulation.

11 Is it your understanding that the

12 Commission's regulations are publicly available?

13 A. Yes, they are.

14 Q. Okay. Thank you.

15 Mr. Moretti, would you state your

16 opinion as to whether the sample meter testing

17 program is an essential program?

18 A. It's an essential program because we have

19 an obligation to make sure that our meters are

20 working properly and that we bill accurately as a

21 result.

22 Q. Is it a measure that is taken to protect

1 the customer?

2 A. Yes.

3 Q. And that's because it's ensuring the
4 accuracy of the meter?

5 A. Correct.

6 Q. There will be testimony later today by
7 Mr. Bill Krueger; but based on your knowledge of
8 what specific actions the company took in
9 relation to providing Mr. Jakubik notice of the
10 meter exchange at the subject premises, is it
11 your opinion that Nicor performed the meter
12 exchange in a reasonable manner?

13 A. Based on my investigation, I have come to
14 that conclusion that we performed the meter
15 exchange in a very reasonable manner.

16 Q. And did Nicor perform the exchange in
17 accordance with all of the ICC rules -- excuse
18 me, all of the Commission's rules and
19 regulations?

20 A. That's correct.

21 Q. Is it your opinion that Nicor gave
22 reasonable notice to Mr. Jakubik in this

1 instance?

2 A. We believe so, yes.

3 Q. Does Mr. Jakubik's testimony that he did
4 not receive anything other than the initial form
5 letter, number 57, change your opinion as to
6 whether or not Nicor provided him reasonable
7 notice?

8 A. No. Based on my investigate, we believe
9 we issued the proper notices to Mr. Jakubik.

10 Q. Does Mr. Jakubik's statement that he was
11 out of time -- out of town at the time alter your
12 opinion of the company providing reasonable
13 notice?

14 A. No, it does not.

15 Q. Mr. Moretti, what has been marked as Nicor
16 Exhibit 7.

17 Do you recognize this document?

18 A. Yes, I do.

19 Q. What is this document?

20 A. This is our first revised sheet, number
21 35, of our tariff sheet terms and conditions.

22 Q. Is this document approved by the

1 Commission?

2 A. Yes, it is.

3 Q. Is this -- would this document have been
4 scrutinized by the Commission staff prior to its
5 approval?

6 A. Correct.

7 Q. Is it publicly available?

8 A. Yes, it is.

9 Q. Recognizing again that you are not an
10 attorney, is it your understanding that this
11 document has the force and effect of the law?

12 A. Yes, it does.

13 Q. Does this document govern their terms
14 pursuant to what customers take service from
15 Nicor Gas?

16 A. It does.

17 Q. Directing your attention to the last full
18 paragraph entitled "access to premises." Would
19 you please read what is stated.

20 A. Access to premises: The properly
21 authorize agent of the company shall at all
22 reasonable hours have free access to the premises

1 for the purpose of inspecting the customer's
2 installation and of reading, examining, repairing
3 or removing the company's meters or other
4 property.

5 Q. So is it your opinion than this document
6 requires customers to provide Nicor with access
7 to the subject premises at all reasonable times?

8 A. That's how the company handles it.

9 Q. And the language specifically sets forth
10 that a purpose for the access would be to read,
11 examine, repair or remove the company's meters?

12 A. Yes, it does.

13 Q. In your opinion, does this require the
14 property owner to take steps necessary to assist
15 the company in gaining access?

16 A. That's correct.

17 Q. Is it the underlying reason for this that
18 the company has essential equipment that is
19 located on customer's premises?

20 A. Yes. We have to have access to our meter
21 and other essential equipment.

22 Q. Okay. And Nicor, since such equipment is

1 located at the customer's premises, it's not
2 equipment that Nicor can reach without the
3 customer's assistance?

4 A. That's correct.

5 Q. In your opinion, did Nicor seek access to
6 the meter at the premises that is the subject of
7 Mr. Jakubik's complaint during reasonable hours?

8 A. Yes, we did.

9 Q. And why is that your opinion?

10 A. I know that from our investigation that we
11 sent several documents and made phone calls
12 within a period of time that we thought would
13 allow access to the premises for what we had to
14 do.

15 Q. Did Nicor seek access after working hours?

16 Did they want to come in the middle of
17 the night and do it?

18 A. No.

19 Q. Would Nicor have arranged to perform the
20 meter exchange at any time that was agreeable to
21 Mr. Jakubik?

22 A. Yes.

1 Q. Mr. Moretti, are you aware of whether
2 Nicor has received any other customer complaints
3 claiming insufficient notice with regard to the
4 sample meter exchange program?

5 A. In my experience, we have not received any
6 other complaint of this nature.

7 Q. Okay. At this point, I would like to
8 direct the rest of your comments and testimony to
9 the second interruption, which had to do with the
10 reported gas leak.

11 Is it your understanding that the second
12 interruption was related to a gas leak?

13 A. That's my understanding, correct.

14 Q. And is it also your understanding that
15 Nicor received notices that someone called Nicor?

16 A. That's correct.

17 Q. In your opinion, is a gas leak a serious
18 situation?

19 A. Yes. A gas leak is in the company's
20 opinion, the number one emergency situation.

21 Q. And is that because it can impair life and
22 damage property?

1 A. It's a very serious situation. It could
2 result in that.

3 Q. Okay. In your opinion, should Nicor call
4 customers of records -- the customer of record
5 prior to responding to an emergency situation?

6 A. The company's position and practice is,
7 when we get an emergency situation such as that,
8 we will respond immediately. Making phone calls
9 is not part of that response practice.

10 Q. Okay. And is that because the company
11 holds as a priority securing the safety of the
12 situation first?

13 A. Correct. We want to get there as fast as
14 possible and eliminate the danger.

15 Q. In your opinion in a gas leak situation,
16 could even minimal delay have severe
17 consequences?

18 A. It could.

19 Q. Is it also your understanding that most of
20 Nicor's accounts are not landlord buildings?

21 A. Correct.

22 Q. Do you know whether there would be a risk

1 of increased -- or an increase risk with the
2 situation if Nicor, in fact, did call customers
3 on accounts prior to responding to gas leaks?

4 A. There could be, one, delay in response to
5 the emergency; and, two, from a practical
6 standpoint, if a call, a telephone call in this
7 case was made, it may cause -- a situation may
8 cause an explosion because of the spark that can
9 be generated from that phone call. So we
10 generally do not make phone calls in that
11 situation.

12 Q. Is it also your understanding that when
13 the company responds to reports of gas leaks that
14 the company also does not ring the doorbell when
15 it gets to the house?

16 A. That's correct.

17 Q. And is that due to the same concern that
18 the spark from the doorbell could cause --

19 A. Correct.

20 That's correct. Any electrical charge
21 could ignite and cause an explosion.

22 Q. Okay. Do you agree with Mr. Jakubik's

1 position that Nicor should have called him prior
2 to responding to a tenant report of a gas leak?

3 A. No, I don't agree with Mr. Jakubik's
4 position on that point.

5 Q. Again, are you aware of any Commission
6 regulations or, in fact, any laws that require
7 Nicor to telephone a customer prior to responding
8 to a report of a gas leak?

9 A. No, there is no regulation to that effect.

10 Q. Is it your opinion that Nicor did not
11 violate any rule or regulation by not calling
12 Mr. Jakubik?

13 A. No, we believe no rule was violated.

14 MS. NAUMER: That's all I have.

15 JUDGE DOLAN: Cross-examination.

16 CROSS-EXAMINATION

17 BY

18 MR. THOMAS JAKUBIK:

19 Q. You've been on this position, what, five
20 months?

21 A. I've been with the company 25 years. Five
22 months on this particular position.

1 Q. What was your position in August of 2002?

2 A. I was board of their rate administration.

3 Q. Did it have anything to do with contacting

4 customers and replacing gas meters or anything?

5 A. My primary duty then as it is now was to

6 handle Illinois Commerce Commission complaints,

7 which involved contacting customers and dealing

8 with matters such as this.

9 Q. How long have you been working as

10 intermediary contacting customers of complaints?

11 A. It's 2004. 14 years.

12 Q. Okay. Is there -- do you have written

13 procedures as to how you're supposed to contact

14 the customers?

15 A. We have procedures that go into contacting

16 customers.

17 Q. And where would those procedures be, those

18 written procedures be?

19 A. In the appropriate department.

20 MR. THOMAS JAKUBIK: I'd like to be noted that

21 this is part of what we had in discovery that has

22 never come about that claimed they don't have and

1 never was created.

2 MS. NAUMER: Your Honor, may I ask the witness
3 a clarifying question because Mr. Jakubik --

4 MR. THOMAS JAKUBIK: Excuse me, I'm talking
5 right now.

6 MS. NAUMER: You weren't talking when I just
7 said that.

8 JUDGE DOLAN: All right. I'll take notice of
9 that, Mr. Jakubik; but, you know, above and
10 beyond that, go ahead and proceed.

11 MR. THOMAS JAKUBIK: Okay.

12 BY MR. THOMAS JAKUBIK:

13 Q. You were requested to review my
14 allegations as far as gas disconnection?

15 A. When an ICC complaint comes to my
16 department, I handle it and process it.

17 Q. I'm talking about in January -- or you
18 said that you prepared and reviewed everything
19 that has transpired here.

20 A. We reviewed the ICC complaint.

21 Q. Did you make a written report?

22 A. Yes, we did.

1 Q. Where is that written report?

2 A. We submitted it to the Commission.

3 MR. THOMAS JAKUBIK: That's another item that

4 I requested.

5 MS. NAUMER: Your Honor, that item has been

6 provided to Mr. Jakubik.

7 Would you like to see it again?

8 MR. THOMAS JAKUBIK: Sure.

9 MS. NAUMER: It's been provided to you. It's

10 been provided to Judge Dolan as well.

11 MR. THOMAS JAKUBIK: Okay.

12 BY MR. THOMAS JAKUBIK:

13 Q. When -- what are specific procedures for

14 contacting a customer?

15 Could you take this through the -- you

16 receive -- where do you receive your requests for

17 replacing the gas meters?

18 JUDGE DOLAN: All right. Mr. Jakubik, I

19 understand that you're not, you know, familiar

20 with the procedures here, but I want to ask you

21 to just limit it to one question at a time and

22 try not to do compound questions so then it makes

1 it more difficult for the responses. Okay?

2 BY MR. THOMAS JAKUBIK:

3 Q. Okay. Where do you receive your requests

4 to do a sample meter exchange?

5 A. The Commission requires us to do that.

6 Q. No, I'm asking where do you receive the

7 information of which meters to do?

8 A. From the random sample program.

9 Q. And who provides that?

10 A. It's a sampling program that's run through

11 our customer service.

12 Q. So it's computer generated?

13 A. Uh-huh.

14 Q. And who gets to see that?

15 A. Our operating people.

16 Q. And they would be?

17 A. Generally, in our customer service area.

18 Q. Okay. Is the customer service -- is home

19 base of the customer service area the same place

20 for this?

21 A. It's in a separate department within the

22 company.

1 Q. Separate building?

2 A. Could be.

3 Q. No could be. Is it?

4 A. At the time that this was done, I'm not

5 sure.

6 Q. So you have no idea where all this --

7 people were place when this happened?

8 MS. NAUMER: Your Honor --

9 THE WITNESS: Generally, our corporate office.

10 MS. NAUMER: Objection. I don't know what

11 relevancy any of this has.

12 MR. THOMAS JAKUBIK: I'm asking where --

13 JUDGE DOLAN: All right. Just hold on when

14 she objects. I need to rule on it.

15 I'm going to overrule it. Give him a

16 little leniency.

17 THE WITNESS: In our corporate office.

18 BY MR. THOMAS JAKUBIK:

19 Q. And that is where?

20 A. Naperville.

21 Q. So the customer service telephone bank is

22 in the corporate office in Naperville?

1 A. Well, I guess I need to ask you a
2 question. What time frame are you talking about?

3 Q. August of 2002.

4 A. That's correct.

5 Q. Okay. And this computer system and these
6 personnel that read these, this is also in the
7 same Naperville building?

8 A. Yes. To the best of my knowledge, yes.

9 Q. Are they on the same floor?

10 A. That, I can't answer. I don't know.

11 Q. Are they reasonably nearby?

12 A. In the same building.

13 Q. Okay. These actual service workers, how
14 do they contact the actual service workers when
15 you put out a request to exchange a meter?

16 A. Can you define service workers?

17 Q. The person that actually goes through the
18 supervisory personnel that delegates the actual
19 mechanic to go to the site.

20 How does he find out about it from the
21 information that you just said was derived from
22 this computer random sampling?

1 A. Well, an order would be initiated.

2 Q. And that's put on what?

3 A. Computer system.

4 Q. And the computer system is readily

5 available to everybody?

6 A. Yes.

7 Q. And all the information that's ever

8 discussed about anything is on that machine?

9 MS. NAUMER: Objection. I don't know how

10 clear that is.

11 THE WITNESS: You say all the information.

12 I --

13 BY MR. THOMAS JAKUBIK:

14 Q. Anything that has any conversations

15 between the crew, supervisors, customer service

16 and Nicor. Everything is logged into that

17 machine as it happens?

18 A. Pertinent information is logged in.

19 Q. Now, what's the procedures -- once the

20 system says that a particular meter wishes to --

21 needs to be replaced, tell me the next event that

22 happens?

1 MS. NAUMER: Your Honor, to -- I need to state
2 an objection because I think we're getting beyond
3 the scope of Mr. Moretti's testimony and we have
4 another witness who is going to come on after
5 Mr. Moretti who was actually -- who's involved in
6 the day-to-day operation of this program and can
7 testify to what happens first, what happens next,
8 et cetera, et cetera. He's planning on testify
9 to that. I just think these questions might be
10 more appropriately directed to Mr. Krueger.

11 MR. THOMAS JAKUBIK: Mr. Moretti is an expert.

12 JUDGE DOLAN: I'm going to overrule your
13 objection just based, you know, for what he
14 knows. Personal knowledge, he can answer the
15 question.

16 THE WITNESS: Can you repeat your question.

17 BY MR. THOMAS JAKUBIK:

18 Q. Once you decide which meter is going to be
19 replaced, what's the next thing that happens?

20 A. Are you referring to the sample program?

21 Q. Yes.

22 MS. NAUMER: To the extent you know. If you

1 don't know, don't guess.

2 THE WITNESS: We would initiate the letter.

3 BY MR. THOMAS JAKUBIK:

4 Q. Who initiates -- how is the letter

5 initiated?

6 A. Through the sample program.

7 Q. And where is that letter mailed from?

8 A. Our corporate office.

9 Q. Who physically does that?

10 A. Our special service area, our mail

11 department. The computer prints it and it's

12 mailed out.

13 Q. So you have no idea if the mail -- letter

14 actually went out?

15 A. I haven't had any reason not to think it

16 wouldn't go out.

17 Q. That's not what I asked.

18 You have no idea if the letter ever went

19 out?

20 A. You're asking my opinion.

21 Q. Okay. And then after these -- so what's

22 the next thing that happens?

1 A. You get the letter.

2 Q. Well, in theory; correct?

3 What's the next item that happens?

4 A. The customer would call us.

5 Q. No. No.

6 After the -- okay. The computer sends

7 out letters. Then the next item that the

8 computer does?

9 A. Well, if you don't schedule an appointment

10 with us within a reasonable time, another letter

11 would be initiated.

12 Q. Okay. And then what happens?

13 A. We wait for the customer to call us.

14 Q. So nothing -- if the customer didn't call,

15 nothing would happen?

16 A. Wait for the customer to call us.

17 Q. Oh, okay.

18 So then how would the service personnel

19 go out to that building?

20 A. If it's not within a time frame that we're

21 looking for then we would notify the field

22 operation to take the third step.

1 Q. And what's the time frame?

2 A. In this case, it was -- I believe we -- I
3 have to get the dates of the letter, but I
4 believe within a week, approximately.

5 Q. Again, I'm going back to your procedure
6 manual. What does the procedure manual state?

7 A. The practice of the field people is that
8 they would wait within a reasonable amount of
9 time and then --

10 MS. NAUMER: Your Honor, I need to insert an
11 objection. Mr. Jakubik's question presumed that
12 a procedural manual for the meter exchange
13 program exists, and he has not established that
14 that exists yet. And, in fact, it doesn't exist,
15 which is why I have to object to the question.

16 MR. THOMAS JAKUBIK: He just said it did.

17 MS. NAUMER: He did not. You asked him if
18 there were --

19 MR. THOMAS JAKUBIK: Procedures, written
20 procedures.

21 MS. NAUMER: -- written procedure. You didn't
22 ask him if there were specific procedures that

1 were written to the meter exchange program, and
2 there's a difference.

3 JUDGE DOLAN: All right. I'll sustain the
4 objection.

5 Just rephrase your question. Okay?

6 BY MR. THOMAS JAKUBIK:

7 Q. If you were not in the building at the
8 time this was supposed to happen, how would
9 anybody else know how to proceed with the meter
10 exchange?

11 A. People have been trained how to perform
12 that duty.

13 Q. And how would they get trained?

14 A. Through supervisors and --

15 Q. Is this a verbal or a written?

16 MS. NAUMER: Your Honor, once again, this is
17 an area that Mr. Krueger is going to testify to
18 directly. I think these questions are, again,
19 more appropriately directed to towards him.

20 MR. THOMAS JAKUBIK: This gentleman is the
21 customer relations manager; correct?

22 MS. NAUMER: There --

1 JUDGE DOLAN: All right. As far as what he
2 knows and doesn't know, I mean, if this isn't
3 your area then just advise him accordingly.
4 Okay?

5 THE WITNESS: He's a better person who can
6 address your issues.

7

8 BY MR. THOMAS JAKUBIK:

9 Q. You are the customer relations manager.
10 Mr. Krueger is above you or below you?

11 A. He doesn't report to me.

12 Q. You're sending out information from the
13 computer and you have no idea how it gets to
14 where it goes?

15 MS. NAUMER: Objection. Mr. Moretti did not
16 testify that he personally sent -- he testified
17 to his understanding of how the department that
18 does so handles the processing.

19 JUDGE DOLAN: All right. I'll sustain that
20 objection.

21 BY MR. THOMAS JAKUBIK:

22 Q. Does the department that hands it out have

1 a manual on how they're supposed to do that, if
2 there's a process?

3 MS. NAUMER: To the extent you know. If you
4 don't know, you don't know.

5 THE WITNESS: What was the question again?

6 BY MR. THOMAS JAKUBIK:

7 Q. Does the department that does the
8 processing have a manual to operate out of?

9 A. To the extent I know, no, they do not.

10 Q. The computer system and there's -- the
11 computer system that you use does not have any
12 manual or training information on it at all
13 relating to gas -- contacting the customers?

14 MS. NAUMER: I'm sorry, could you repeat the
15 question. I wasn't --

16 BY MR. THOMAS JAKUBIK:

17 Q. The computer system that you have does not
18 have any information as to procedures to contact
19 customers?

20 A. I don't understand the question.

21 Q. Well, since you have turned over an
22 employee, how would an employee know what he's

1 supposed to do?

2 Your statement is that everything in
3 Nicor's training is done verbally, and there are
4 no written statements.

5 MS. NAUMER: Objection. I do not believe that
6 is what he testified to. He testified to his
7 understanding that in the area of the sample
8 meter exchange program that the instruction
9 occurs verbally.

10 Mr. Jakubik is expanding that to the
11 entire company, and there's a difference between
12 the entire company processes and what occurs
13 within the sample meter exchange program
14 department.

15 JUDGE DOLAN: I will sustain that objection.
16 I don't believe that's what he testified to
17 either, Mr. Jakubik. That's not what my notes
18 indicate.

19 MR. THOMAS JAKUBIK: Okay. So -- this is just
20 a sidebar. So my requesting that -- never mind.
21 Never mind that.

22 BY MR. THOMAS JAKUBIK:

1 Q. So are you in charge of the customer
2 service? Are you in charge of the people that
3 actually make the phone calls and take the phone
4 calls for distress calls?

5 A. No.

6 Q. Have you ever worked in that department?

7 A. Yes.

8 Q. So you're familiar with that department?

9 A. Yes.

10 Q. Okay. When they get a call from somebody
11 saying there's a gas leak, they smell gas, what's
12 the next thing that they do?

13 A. When you say "they," who are you talking
14 about?

15 Q. The operator, the customer operator.

16 He receives a call from somewhere that
17 says we have a gas leak at 1711 Victoria in Mount
18 Prospect, what would be their function? What do
19 they do?

20 A. Are you talking about the call center
21 representative?

22 Q. Correct.

1 A. They would initiate an order to the field
2 to respond to the gas leak.

3 Q. Okay. So they just basically type it in
4 to their computer system?

5 A. Correct.

6 Q. At no time do they call anybody? Do they
7 call the mechanics or the supervisor of the
8 mechanics?

9 A. No.

10 Q. How would the mechanics know if it's an
11 urgency or not? Does the computer state it
12 differently?

13 A. When they enter the information, they
14 classify it as a gas leak, and the system
15 prioritizes that.

16 Q. Okay. What procedures do they follow as
17 far as if it's a gas leak to notifying the
18 customer that it might be something dangerous
19 going on in his property?

20 A. I don't understand the question again
21 because normally what scenario are placing it?

22 Q. Would the customer -- would the customer

1 service representative contact the customer to
2 notify him that there's a hazardous happening at
3 his building on the property?

4 A. Well, I'm a little confused because
5 usually the customer is calling us to tell us
6 there's a gas leak.

7 Q. Well, you just stated not all customers
8 call you.

9 A. What?

10 Q. In this particular instance, you weren't
11 called by a customer. You were called by a third
12 party.

13 A. That's correct.

14 Q. Okay. So, you took the name and telephone
15 number of the party; right?

16 A. I'm not exactly sure what they did in this
17 particular situation.

18 Q. What's their next procedure? Would they
19 contact the owner of the property and notify him
20 there's a hazardous situation on his property?

21 MS. NAUMER: Just one clarifying question.

22 When you say contact, do you mean would they call

1 the owner of the property?

2 MR. THOMAS JAKUBIK: Right. Contact. Any

3 contact. If there's a hazardous situation at a

4 property.

5 MS. NAUMER: Well, I presume you wouldn't say

6 initial a mailing if there's a hazardous

7 situation.

8 MR. THOMAS JAKUBIK: I'm asking for his

9 response.

10 MS. NAUMER: I'm trying to understand what

11 you're asking.

12 Is that a yes?

13 MR. THOMAS JAKUBIK: Yes.

14 THE WITNESS: What question should I be

15 answering here?

16 BY MR. THOMAS JAKUBIK:

17 Q. What is the customer services procedural

18 business when they get an emergency call after

19 they type in to this computer system that sends

20 it down to the next level?

21 Are they supposed to call, contact, or

22 in any way notify the owner of the property that

1 there's a hazardous situation at their property?

2 A. In general, they would not make a

3 follow-up call for safety purposes.

4 Q. So they never contact -- you're saying do

5 they ever or never?

6 A. I'm just saying in general. I can't speak

7 that there's an exception to that.

8 Q. And this is a procedure that they're

9 trained with; correct?

10 A. Well, they're trained to handle

11 emergencies. Their primary job is to initial the

12 order to the field.

13 Q. Is there -- well, you're familiar with the

14 customer service. Do they have a written

15 training manual?

16 A. I believe they have some training

17 information, guideline, book.

18 Q. And who to call, when to call and how to

19 operate --

20 A. It trains them how to handle emergency

21 situations.

22 Q. Okay. Would you know where that booklet

1 might be?

2 A. Probably in our customer service area.

3 MR. THOMAS JAKUBIK: There's another item that

4 I requested.

5 BY MR. THOMAS JAKUBIK:

6 Q. Okay. After -- so as I get this correct,

7 the customer service gets the inquiry. They type

8 it into the computer system. The computer system

9 based on the operator's coding of the urgen- --

10 of the service request; right?

11 So they would code it whether it's

12 emergency or not; correct?

13 A. That's correct.

14 Q. Okay. Do you have -- did you look at the

15 records that were in the system? Can you tell if

16 they were coded correctly as to an emergency or

17 an exchange; can you tell?

18 From the documents that you reviewed

19 when you made your written report on this

20 situation, were these things coded correctly as

21 to notifying the mechanic whether they were an

22 emergency or just an exchange of a meter?

1 MS. NAUMER: Once again, your Honor, I'll say
2 that is an area that Mr. Krueger is prepared to
3 address.

4 MR. THOMAS JAKUBIK: He prepared the written
5 report that says that he knows what happened. So
6 I'm asking him what it said.

7 MS. NAUMER: Your Honor, I believe this is
8 beyond the scope of his testimony, but he did not
9 testify to that today. And Mr. Moretti is not
10 the person who prepared the written report that
11 was sent to the Commission's customer services
12 division. It was Mr. Krueger who did so.

13 MR. THOMAS JAKUBIK: He just said he did.

14 JUDGE DOLAN: I do believe he did say he
15 prepared a report that he submitted.

16 MR. THOMAS JAKUBIK: Where is that report you
17 said I had?

18 MS. NAUMER: Well, if you would stop your
19 questioning, I could pull it for you.

20 JUDGE DOLAN: Let's go off the record.

21 (Whereupon, a discussion
22 was had off the record.)

1 JUDGE DOLAN: All right. Mr. Jakubik, you can
2 proceed.

3 BY MR. THOMAS JAKUBIK:

4 Q. Okay. So I ask again, you said you did a
5 report, where is the report that you did, that
6 you submitted?

7 A. We sent a document to the Commission,
8 detailing the results of our investigation and
9 electronically transmitted it down to them in
10 Springfield. This particular document here is
11 part of our transmission to the Commission.

12 Q. Okay. I'll ask again, you were requested
13 back around January or so to do a complete review
14 of this file, and you created a written report.
15 Where is that report?

16 MS. NAUMER: Do you mean that you took this
17 and you transmitted it in a different form to the
18 Commission?

19 THE WITNESS: We submitted information to the
20 Commission in regards to Mr. Jakubik's complaint
21 back in when it was first initiated as an
22 informal complaint. This is the document.

1 MS. NAUMER: Okay. Your Honor, I do not have
2 copies. This document contains the second page
3 of the document I just provided to you, which is
4 Mr. Krueger's summary.

5 This document contains that summary. It
6 is placed into a form that was submitted to the
7 Commission. And I'd be happy to go make copies
8 for everybody. But the substance of the document
9 is that second page of the document I just
10 provided to you.

11 JUDGE DOLAN: What's the front page look like?

12 MS. NAUMER: Here, I'll show you what this
13 looks like.

14 So this is the complaint. This is the
15 allegations, and this is the second page of the
16 other document. This is Mr. Krueger's narrative,
17 and that's repeated. So it's just put into a
18 format that the Commission --

19 JUDGE DOLAN: Why don't you show it to
20 Mr. Jakubik and see if he has a copy of it.

21 MS. NAUMER: Do you see that? This is the
22 second page, what I've provided you.

1 MR. THOMAS JAKUBIK: Oh, this we have.

2 MS. NAUMER: This is the allegation from your
3 complaint, and this is just a format. It's put
4 into a form that's transmitted to the Commission.
5 That's what he's referring to.

6 MR. THOMAS JAKUBIK: Okay. And this is --

7 MS. NAUMER: This is --

8 MR. THOMAS JAKUBIK: -- something that he
9 produced.

10 MS. NAUMER: This substance is the same as.

11 MR. THOMAS JAKUBIK: That's not the correct
12 question. This is something that Tom already
13 produced. This is --

14 MS. NAUMER: Tom Moretti didn't -- do you mean
15 did he prepare this form?

16 MR. THOMAS JAKUBIK: Tom Moretti testified
17 that he went through all this information and
18 prepared a written report. I'm asking for the
19 written report that he prepared.

20 THE WITNESS: That's the report that we
21 prepared.

22 BY MR. THOMAS JAKUBIK:

1 Q. This one doesn't have your name on it.

2 A. I review all the reports that go to the

3 Commission.

4 MS. NAUMER: Are you done with that?

5 BY MR. THOMAS JAKUBIK:

6 Q. Okay. So, that the customer service

7 representative when they received the phone call

8 they type it into the system, they noted what its

9 priority is, right, what a coding system;

10 correct?

11 A. Indicates a gas leak.

12 Q. Okay. And that is electronically

13 transmitted to the department that would then be

14 the one responsible for taking action; is that

15 correct? Or is there somewhere in between it

16 goes to?

17 A. It goes out to the field for our handling.

18 Q. Okay. Then who's the next person that

19 would be in line to read that and make a decision

20 on it?

21 A. We have a dispatching area that would

22 probably review that order.

1 Q. And the dispatch, they are the one that
2 contacts the mechanics?

3 A. They would forward the order to the field
4 person.

5 Q. Okay. Do they have telephones?

6 A. They have a communication device.

7 Q. What type of device is that?

8 A. I believe it's -- we call it a
9 computer-aided dispatching. It's a laptop
10 computer.

11 Q. Okay. Do the trucks actually have two-way
12 voice communication on them?

13 A. That, I can't answer at this point. I'd
14 have to check.

15 Q. Okay.

16 MS. NAUMER: Mr. Krueger is prepared to
17 testify to that point.

18 BY MR. THOMAS JAKUBIK:

19 Q. So it goes to dispatch. Okay. Then where
20 does it go after dispatch?

21 A. It goes out to the field.

22 Q. And that would be, what, the garage or

1 mechanics or --

2 A. To the people, our fieldworker that

3 respond to the emergency call.

4 Q. Is that in the same location as the

5 corporate headquarters?

6 A. Generally not.

7 Q. So it's done electronically; right?

8 A. Correct.

9 Q. Who at the -- in the field operation would

10 then read the request?

11 A. Our service person.

12 Q. Who would that be? That would be manager,

13 the head supervisor, the foreman, who?

14 A. It goes to the person who -- our service

15 technician who responds to the call.

16 Q. Directly to that person?

17 A. Right.

18 Q. So there's nobody -- there's no supervisor

19 in between; right?

20 A. In emergencies, we have a system where it

21 could go right to the service person.

22 Q. In your written report, that's what you

1 said happened here; right?

2 A. Well, the written report, I have to look
3 at it again; but I don't think that was an issue
4 in the written report.

5 Q. Okay. And in the -- what's the -- how is
6 the mechanic -- how is he trained to go out and
7 do this?

8 A. He has to be certified to do the job.

9 Q. But how is he trained? Is it written,
10 verbal?

11 A. He goes through our training classes.

12 Q. So it's a formal training class with
13 written documents; right?

14 A. To the extent I know, yeah.

15 Q. Okay. Is he told how to contact -- how is
16 he informed or trained on how to contact the
17 customers at the location, wherever the location?

18 A. I have to look at -- I'm not familiar with
19 that process.

20 Q. You have no idea what they do out there?

21 A. I have an idea, but I haven't been
22 recently familiar with it, no.

1 Q. Okay.

2 MR. THOMAS JAKUBIK: Okay. I'm done.

3 JUDGE DOLAN: Any recross -- redirect, I'm
4 sorry?

5 MS. NAUMER: I just have a couple of areas of
6 clarification. Could you give me one moment?

7 JUDGE DOLAN: Certainly.

8 Let's go off the record.

9 (Whereupon, a discussion
10 was had off the record.)

11 JUDGE DOLAN: Let's go back on the record.

12 MR. THOMAS JAKUBIK: May I go back and just
13 ask one more question of Tom Moretti?

14 JUDGE DOLAN: I don't think you were done with
15 your cross, were you? Or were you?

16 MS. NAUMER: He had tendered the witness, but
17 that's fine.

18 JUDGE DOLAN: Go ahead.

19 CONTINUED CROSS-EXAMINATION

20 BY

21 MR. THOMAS JAKUBIK:

22 Q. Just to clarify, to the best of your

1 knowledge, what is the procedures when you're
2 doing a gas meter replacement as far as notifying
3 the customer?

4 What's the first thing you do and the
5 second thing you do, the third thing you do?

6 A. To the best of my knowledge?

7 Q. Yes.

8 A. As far as removing the meter?

9 Q. No, the procedure for contacting a
10 customer.

11 A. In regards to?

12 Q. Notification.

13 A. Can you be more specific.

14 JUDGE DOLAN: I was going to say, can you just
15 clarify what type of situation are you talking
16 about?

17 BY MR. THOMAS JAKUBIK:

18 Q. Well, in the exchange of meter situation
19 at 1711 Victoria Drive, it was a program meter
20 exchange. Okay?

21 It came down -- you said it comes off
22 your computer. It says that this is random

1 selection. Okay? And then the next thing that
2 the computer is programmed to do, you had said,
3 was to send a letter?

4 MS. NAUMER: Objection. I don't believe he
5 said that the computer program automatically
6 sends -- he said that the first -- I believe his
7 testimony was that the first step that is taken,
8 the customer is sent one of the form letters, but
9 I don't think he said that the computer
10 automatically did that function without somebody
11 coding it in to do it.

12 THE WITNESS: Correct.

13 BY MR. THOMAS JAKUBIK:

14 Q. Oh, so there's a person that actually does
15 that.

16 In other words, the computer just --
17 because you did it random. So you have a --

18 A. The program is administered by the
19 metering department, and they get the selection
20 and then the letters -- letter numbers 57 and 13
21 go out, if necessary.

22 Q. And this is always the case?

1 A. As far as I know, yes.

2 Q. Okay.

3 MS. NAUMER: Are you done?

4 MR. THOMAS JAKUBIK: I'm done.

5 REDIRECT EXAMINATION

6 BY

7 MS. NAUMER:

8 Q. Mr. Moretti, there were some implications
9 made by Mr. Jakubik that in your position as the
10 customer relations manager that you somehow have
11 personal knowledge of the underlying processes of
12 every complaint that you are required -- strike
13 that question.

14 Could you clarify for the record what
15 your responsibilities as a customer relations
16 manager include?

17 A. When I receive a complaint, I review the
18 customer's complaint issues. I look at how
19 they -- those issues are -- I look at the history
20 behind those issues, look at the company action
21 and see if we're in compliance with the ICC
22 Administrative Code or any other regulatory

1 statute.

2 Q. So your involvement in the subject matter
3 of a complaint takes place after the fact, after
4 a complaint is filed?

5 A. That's correct.

6 Q. And you do not have every day-to-day
7 working within the subject areas that -- within
8 the areas that might be the subject of a
9 complaint?

10 A. That's correct.

11 Q. Okay. And your involvement is to assess
12 whether the actions -- you review the actions
13 that the company representatives took and you
14 assessed whether those actions were compliant
15 with the Commission's regulations?

16 A. Correct.

17 Q. There also was some confusion in
18 Mr. Jakubik's questioning about the existence of
19 written procedures. And I believe that -- so
20 just a couple of clarification questions.

21 To the best of your knowledge, does the
22 department that administers the meter exchange

1 program have written official procedures that
2 direct the people in that department how to
3 notify a customer?

4 A. To the best of my knowledge, no, they do
5 not have a manual.

6 Q. Okay. You were asked some questions about
7 what type of manual or manuals the customer
8 services department would have in this regard.

9 Is it your understanding that the
10 customer services department would have manuals
11 instructing them on how to notify a customer with
12 regard to the meter exchange program?

13 A. No, they do not.

14 Q. And is that because the meter exchange
15 program is administered by a department other
16 than customer service?

17 A. That's correct.

18 Q. You were also asked -- or there were
19 some -- also some implications made that there
20 would be written procedures, again in the
21 customer services department, with regard to how
22 the customer services representative should go

1 about calling or contacting or mailing a customer
2 of record that an emergency situation is taking
3 place that the company's responding to.

4 To the best of your knowledge, do
5 those -- does that type of a manual exist?

6 A. No, it does not.

7 Q. And why is that?

8 A. They are not required to contact or
9 trained to contact the customer in an emergency
10 situation, make the phone call.

11 Q. And the reason that nobody is trained to
12 call a customer when there is a reported gas leak
13 that it would, in fact, be unsafe?

14 A. That is correct.

15 Q. So there aren't going to be any written
16 procedures that tells somebody to call a
17 customer?

18 A. Correct.

19 Q. Thank you.

20 With respect to the fieldworkers, there
21 were also some implications that there would be
22 manuals that would exist that would instruct them

1 to call the customer or how to call the customer
2 or how to contact the customer in regards to an
3 emergency situation of a reported gas leak.

4 To the best your knowledge, do those
5 documents exist?

6 A. To the best of my knowledge, they do not
7 exist.

8 MS. NAUMER: That's all I have.

9 JUDGE DOLAN: Any recross?

10 MR. THOMAS JAKUBIK: Yeah.

11 RECROSS-EXAMINATION

12 BY

13 MR. THOMAS JAKUBIK:

14 Q. So, you're also stating that you do not
15 train your customer representative --
16 representatives not to call anybody, correct,
17 because you're concerned about an electrical
18 spark?

19 A. Are you talking about a gas leak
20 situation?

21 Q. You do not train your people not to make a
22 phone call when there's a gas leak situation?

1 A. Can you state it again.

2 Q. Well, I asked you before if there's a
3 training manual that teaches or instructs --

4 A. In an emergency --

5 JUDGE DOLAN: All right. Only one person can
6 speak --

7 BY MR. THOMAS JAKUBIK:

8 Q. The customer services operator to make a
9 contact or call either in a gas emergency or in a
10 replacement.

11 Let's say -- okay. You say there is no
12 written or training manual that says that they
13 should make a call; correct?

14 A. In an emergency situation, they are not
15 trained to --

16 Q. Is there a manual that states that they
17 shouldn't make a call?

18 A. I'm not aware of any manual.

19 Q. Well, then how would they know not to make
20 a call?

21 A. They are trained not to call.

22 Q. And how did they get this information?

1 How would they know not to call?

2 A. From their training. When they're in
3 their training.

4 Q. And how would the trainer know?

5 A. From experience or from, you know, that's
6 what they're directive --

7 Q. Is there -- there isn't any written --

8 A. From a safety --

9 Q. -- directive --

10 A. -- perspective, they're instructed not to
11 contact customers.

12 Q. Right. And you're stating again that
13 there isn't any written directives that tells
14 them --

15 A. I'm not aware of any --

16 Q. -- for safety reasons --

17 A. -- directives.

18 Q. -- they should not make a phone call
19 because of the fact that they might initiate a
20 spark, which would cause an explosion?

21 A. I'm not aware of any written directive.

22 MR. THOMAS JAKUBIK: Okay. I'm done.

1 JUDGE DOLAN: All right. You can step down.
2 Call your next witness.
3 MS. NAUMER: Yes. I'd like to call Mr. Bill
4 Krueger.
5 JUDGE DOLAN: All right, sir. Can you raise
6 your right hand.
7 (Witness sworn.)
8 JUDGE DOLAN: Okay. You may proceed.
9 BILL KRUEGER,
10 having been called as a witness herein, after
11 having been first duly sworn, was examined and
12 testified as follows:
13 DIRECT EXAMINATION
14 BY
15 MS. NAUMER:
16 Q. Mr. Krueger, can you state your name and
17 spell your last name for the record.
18 A. Bill Krueger, K-r-u-e-g-e-r.
19 Q. Who are you employed by?
20 A. Nicor Gas.
21 Q. What capacity are you employed by Nicor?
22 A. Currently I'm a centralize locating

1 supervisor.

2 Q. How long have you been in that position?

3 A. Since February of 2004.

4 Q. And were you employed by Nicor before
5 that?

6 A. Yes, I was.

7 Q. In what capacity?

8 A. I was the operations field supervisor.

9 Q. And how long were you employed in that
10 capacity?

11 A. 15 years.

12 Q. What were your responsibilities in your
13 capacity as the operations field supervisor?

14 A. I was the field supervisor for 20
15 operations, technicians, mechanics, field service
16 people out of the Park Ridge office.

17 Our main responsibility was priority
18 response, responding to gas leaks. We also had
19 responsibilities of compliance work, leak survey
20 investigation, meter exchange and program.

21 Q. Okay. So your responsibilities did
22 include administering the meter exchange program?

1 A. Yes.

2 Q. Now, there has been a lot of discussion
3 here today about what type of guidelines exist
4 and for the contacting of customers with regard
5 to meters that are to be exchanged as part of the
6 meter exchange program.

7 Does Nicor have documents that set forth
8 procedures for notifying customers in this
9 regard?

10 A. No.

11 Q. Why not?

12 A. I've learned it on the job since I was in
13 there from previous supervisors how to administer
14 the program.

15 Q. And you've been doing this for 15 years?

16 A. Yes.

17 Q. Have you found a need to write this down
18 so that you can tell yourself how to do it?

19 A. No.

20 Q. To the extent that a new employee comes in
21 and starts to work in this program, how are they
22 trained?

1 A. If someone were to take my job, what I was
2 doing, I would just verbally tell them how to do
3 it.

4 Q. So you don't write that down for them?

5 A. I don't write it down, no.

6 Q. And how many employees are involved in
7 the -- actually, strike that.

8 You are -- it's my understanding,
9 correct, that responsibility for handling the
10 notification of customers is divided between
11 commercial accounts and residential accounts?

12 A. Correct.

13 Q. And is it also my understanding that as
14 the supervisor of -- or the field -- operations
15 field supervisor you were personally responsible
16 for handling the commercial accounts?

17 A. That's correct.

18 Q. Do commercial accounts include
19 landlord/tenant buildings?

20 A. Apartment buildings, restaurants,
21 businesses.

22 Q. Okay. And for the residential accounts,

1 do you personally oversee and supervise the
2 handling of those?

3 A. If there needs to be. If I need to step
4 in, yes.

5 Q. Okay. Since the subject premises, which
6 again I'm referencing 1711 West Victoria Drive in
7 Mount Prospect as the subject premises, if that
8 is an apartment building, would that have been
9 within your personal responsibility?

10 A. Yes.

11 Q. Okay. Are you aware of Mr. Jakubik's
12 complaint in this subject matter of it?

13 A. Yes, I am.

14 Q. Did you -- were you personally involved in
15 handling the meter exchange at the subject
16 premises?

17 A. Yes, I was.

18 Q. And the meter exchange -- strike that.

19 And did you personally conduct an
20 investigation into how the response to the second
21 interruption, which was the gas leak, was
22 handled?

1 A. Yes, I was asked to.

2 Q. Okay. Mr. Krueger, I'm handing you what

3 has been marked as Nicor Exhibit 8.

4 Do you recognize this document?

5 A. Yes, I do.

6 Q. Can you tell me what it is?

7 A. This is the customer order history. This

8 is everything that has taken place on this

9 account.

10 Q. Is this information maintained by a

11 computer system?

12 A. Yes. It's an electronic document.

13 Q. How is the information that is contained

14 within the document entered into the computer

15 system?

16 A. A call representative would issue a call.

17 That gets put on here automatically from the

18 computer system. The ticket then is sent to the

19 dispatching department and then a dispatcher

20 would assign it to the appropriate truck.

21 Q. Okay. And that's when a call comes in?

22 A. Correct.

1 Q. Does it vary how -- I guess, does it vary
2 how information gets entered depending on what
3 type of action it is, for instance, if it was one
4 of the form letters that was sent out?

5 A. There's different -- there are certain
6 codes on there that indicate what was done. I'm
7 not positive what you're asking for.

8 Q. Okay. Let me rephrase it.

9 Different people with different
10 responsibilities at the company are able to enter
11 information to the system; correct?

12 A. Correct.

13 Q. And does each individual that's able to
14 enter information have a computer-type terminal
15 or something that they use to enter the
16 information?

17 A. Yes. They could have a laptop for
18 somebody that's in the office, or it could be a
19 mobile data terminal which would be in a service
20 person's truck.

21 Q. Okay. And does the computer keep track of
22 each and every individual person who enters

1 information?

2 A. Yes.

3 Q. Okay. And can you tell me what column

4 tracks the person who entered the information?

5 A. Under -- in the middle, it says OP of the

6 third line down. That is the operator number.

7 Q. Okay. So each person is assigned an

8 operator number.

9 A. You're assigned an operator number and a

10 password to get onto the system to the main

11 frame.

12 Q. Okay. Now, when information is entered

13 into the system, does the computer automatically

14 date and time stamp the entry?

15 A. Yes.

16 Q. Okay. And where does that show up?

17 A. That will show up on the line where --

18 when it actually enters the ticket onto the

19 system, and it will give you a date stamp where

20 it says completed, in the column C-O-M-P. Third

21 line down.

22 Q. Okay.

1 A. And it will also tell you when it was
2 received. Actually, that's probably the better
3 column. More over to the left, it says RECD.
4 That is when the actual date that they are
5 scheduled to call for or when that date was
6 taken.

7 Q. The actual -- the received column is the
8 date when the information is actually entered?

9 A. Uh-huh.

10 Q. And is the time column next to that the
11 time of day when it was entered?

12 A. Yes. Date and time.

13 Q. Is it possible to get into the -- would it
14 be possible for you to go into the computer
15 system today and alter information that was put
16 in here previously, say, a year ago?

17 A. No. Impossible.

18 Q. Would it be possible for you to go into
19 the computer system today and enter information
20 and put a time and date stamp on it that was a
21 year ago?

22 A. No.

1 Q. And the information in this computer
2 system is maintained within the regular course of
3 Nicor's business?

4 A. Correct.

5 Q. And Nicor employees rely on this on a
6 daily basis in the conduct of their affairs?

7 A. Yes.

8 Q. Do you recognize this as the order history
9 for Mr. Jakubik's account at the subject
10 premises?

11 A. Yes.

12 Q. Okay. And what is the -- is the account
13 number indicated in the top left corner?

14 A. Top left corner.

15 Q. And what is the account number?

16 A. 1-34-88-0264.

17 Q. Okay. Directing your attention to the
18 fourth page of this document, the third line from
19 the bottom, does that indicate -- what does that
20 line indicate to you?

21 A. Third line from the bottom indicates form
22 letter, letter 57, was sent. The date, it says

1 7 -- July 30th, 7/30, at 1418. And it was sent
2 by Operator 137.

3 Q. Are you Operator 137?

4 A. Yes, I am.

5 Q. So you personally sent this letter?

6 A. Yes, I did.

7 Q. Okay. I'm going to just let you reference
8 what we've previously marked this letter as
9 Exhibit 4. Is this letter 57 that you sent?

10 A. Yes, it is.

11 Q. Okay. How did you -- can you walk me
12 through the process that you went through to
13 enter this into the system?

14 A. Okay. We get the sample exchange program
15 from the metering department that tells us which
16 ones are due, which ones need to be exchanged.

17 I get that document in a company
18 envelope. It will have the list of them on
19 there; and from there I take off the business,
20 commercial and apartment buildings.

21 From there, I'll go in an enter letter
22 57 to gain an appointment, to get the meter

1 exchange completed. Send this off in the mail so
2 that at least the customer knows that we need to
3 get it -- get the meter exchanged.

4 Q. Okay. And when you enter this entry into
5 the computer system, does the computer system
6 automatically handle your request to send a
7 letter?

8 A. Yes.

9 Q. Would it send the letter to the mailing
10 address on the account?

11 A. It would send it to the mailing address on
12 the account. Wherever the bills are sent, that's
13 where that is sent.

14 Q. Okay. I would like to show you what has
15 been marked as Nicor Exhibit 9.

16 JUDGE DOLAN: Mr. Krueger. Just before we go
17 further, on this document No. 8, that T, slash,
18 040300, that's the turn on service?

19 THE WITNESS: That was the date Mr. Jakubik
20 took service over there.

21 JUDGE DOLAN: Okay. Thank you.

22 BY MS. NAUMER:

1 Q. Referencing Exhibit 9, do you recognize
2 this document?

3 A. Yes, I do.

4 Q. What is it?

5 A. This is the mailing address of where this
6 bill or anything I send to Mr. Jakubik would go
7 to. Active mail address is where it would be
8 sent to.

9 Q. And can you read for the record what the
10 active mail address is?

11 A. 1125 Weiland Road, Buffalo Grove, Illinois
12 60089.

13 Q. So the computer automatically sends
14 letters and bills to this active mail address?

15 A. Correct.

16 Q. Okay. How soon after you received -- you
17 stated you received a list of accounts that are
18 selected for the sample meter exchange program
19 through the random sampling.

20 How soon after receiving that list of
21 accounts do you actually take the step of sending
22 form letter 57?

1 A. I try and get it out there right away.

2 Q. You do it --

3 A. As soon as I get the list, I try and get

4 it out there and get the letter in the mail.

5 Q. And is it your understanding that the

6 purpose of letter number 57 is to prompt the

7 customer to contact Nicor?

8 A. Yes.

9 Q. So you're encouraging the customer to take

10 action?

11 A. Correct.

12 Q. Did Mr. Jakubik contact you in response to

13 this letter?

14 A. No.

15 Q. Is it your experience that the majority of

16 customers do, in fact, call the company after

17 receiving this letter?

18 A. Yes.

19 Q. Okay. I would now like to also reference

20 what we previously marked as Exhibit 5.

21 Do you recognize that as form letter

22 213?

1 A. Yes, I do.

2 Q. Okay. And looking at Exhibit 8, which was
3 the order history, simultaneously does order
4 history indicate that letter 213 was in fact sent
5 to Mr. Jakubik?

6 A. On August 8th at 1350, Operator 137, which
7 is myself, sent it out.

8 Q. Okay. And the process for form letter 213
9 would have been identical to the process for form
10 letter 057?

11 A. Correct.

12 Q. Okay. And you sent this on August 8th?

13 A. Correct.

14 Q. And, again, does form letter 2- -- I'm
15 sorry, was I referring that as 217? It's 213.

16 A. 213.

17 Q. Does form letter 213 also prompt the
18 customer to take some action?

19 A. Yes, it does.

20 Q. And what does it urge the customer to do?

21 A. It says, You must make arrangements to
22 allow us access to your property and our meter.

1 If you do not contact us immediately to arrange a
2 meter exchange, we will be forced to disconnect
3 our natural gas service.

4 Q. So, in your opinion, is the language in
5 letter 213 more urgent and prompt more -- sooner
6 action than 57?

7 A. Yes.

8 Q. Okay. And the reason for the escalation
9 in the language is because the -- by the fact
10 that letter 213 is being sent, that means that
11 letter 57 was not responded to?

12 A. Yes.

13 Q. Okay. I would like to reference now what
14 was previously marked as Nicor Exhibit 6, which
15 is the notice of disconnection of the gas lines.
16 Do you recognize that?

17 A. Yes, I do.

18 Q. Okay. Referencing between that and
19 Exhibit 8, the order history, does Exhibit 8
20 indicate that the notice of disconnection of gas
21 lines was, in fact, posted at the subject
22 premises?

1 A. Yes, it does.

2 Q. And can you please explain where that
3 information is contained in this Exhibit A?

4 A. The fifth line up under CDE column, it
5 says 240 was scheduled on August 9th at 9:01 by
6 137, which is myself. And it was also completed
7 the same day on August 9th by serviceman 83.

8 Q. Okay. So you personally directed that
9 this notice be posted at the subject premises?

10 A. Yes, I did.

11 Q. And how do you know that serviceman number
12 83, in fact, completed this job?

13 A. There's two. The first is in the order
14 history that it shows that the job was completed
15 on August 9th by serviceman 83. In addition to
16 that, I can look up on the CAD history and with
17 his comments what time and everything he posted
18 that bill on that building.

19 Q. Okay. Now, I would like to show you --
20 sorry we have so many exhibits -- what has been
21 previously marked as Nicor Exhibit 10.

22 Prior to moving on to the next exhibit,

1 did Mr. Jakubik contact the company following
2 either the mailing of form letter 213 or the
3 posting of the notice of disconnection?

4 A. No.

5 Q. Looking at Exhibit 10, do you recognize
6 that document?

7 A. Yes, I do.

8 Q. And what is it?

9 A. This is a completion detail of a CAD
10 ticket, which is computer aid dispatching ticket,
11 of 240. And it says "comments." It says that he
12 did post the building at the time -- it has the
13 time and all that on there. It shows what time
14 he completed the job.

15 Q. And how would -- would this information
16 have -- would the same action that generated the
17 information in the order history also have
18 generated the screen?

19 A. When serviceman mechanic pushes the send
20 button to complete the ticket, it goes away. It
21 goes away from his screen and it stays on the
22 customer order history screen.

1 Q. Okay. And the entry of this information
2 is, once again, part of Nicor regular business
3 practice?

4 A. Correct.

5 Q. The entry time and date is automatically
6 recorded?

7 A. Correct.

8 Q. It can't, after the fact, be erased,
9 modified or altered or added?

10 A. Once he hits the send button, the ticket
11 is gone.

12 Q. And you can't create this document a year
13 after the date that is set forth on the document?

14 A. No, I cannot.

15 Q. The company relies on this in the regular
16 course of business?

17 A. Yes.

18 Q. Is that correct?

19 A. That's correct.

20 Q. And you stated that this, the comments on
21 this, indicate that the building was, in fact,
22 posted?

1 A. Correct.

2 Q. Okay. And Mr. Jakubik did not contact the
3 company after this notice was posted?

4 A. No.

5 Q. Okay. I am showing you what has been
6 marked as Nicor Exhibit 11.

7 Do you recognize this document?

8 A. Yes, I do.

9 Q. And can you tell me what it is.

10 A. This is a CAD ticket. The code on it is
11 an 090; and in that regards, I can tell that that
12 was a regulator. That is a code for a regulator.
13 It says that the regulator was completed and was
14 changed out. The scheduled date was October 24th
15 of '02. It gives the address.

16 Q. Directing your attention down a little
17 further to this COD customer message, can you
18 read what is stated there.

19 A. It says, Needs mx, which is abbreviation
20 for meter change, done by August 16th. This is a
21 six-flat and access to all -- it looks like it
22 was cut off. But probably wouldn't state that we

1 would need access to all apartments. And then
2 the second line it says, Phone call made to do mx
3 appointment, meter change appointment. Left
4 message.

5 Q. And does this -- can you -- there were a
6 couple of things that I think need explanation.
7 Number one, you stated that it indicated that
8 there was a need to access all the apartments.

9 Why would all the apartments -- why
10 would Nicor need to access all the apartments?

11 A. First of all, it's experience. They know
12 that this is a six flat, and you don't know what
13 gas equipment is in the -- appliances that are in
14 the apartments. And for safety reasons, you
15 cannot just turn the gas on without getting in
16 there and relight the pilot.

17 Q. This also states that the meter exchange
18 needed to be performed by August 16th. Do you
19 know whether that date would have been the result
20 of an internal company deadline in order to the
21 ultimate meet one year time frame?

22 A. It would have been an internal deadline.

1 Q. Okay. It states -- the information that
2 is contained in this would have been keyed in the
3 way that you were discussing with the other
4 exhibits; correct?

5 A. Correct.

6 Q. And it would be maintained within the
7 system automatically?

8 A. Correct.

9 Q. Okay. So does this message indicate to
10 you that a phone call was made to Mr. Jakubik
11 with regard to the meter exchange?

12 A. Yes, it does.

13 Q. And why do you believe that a phone call
14 took place?

15 A. Because I instructed a clerk to make a
16 phone call the day before we were going to
17 initially do the meter change on August 15th.

18 Q. So you personally spoke with the director
19 of the clerk to make the phone call?

20 A. Yes, I did.

21 Q. And the phone call -- or the phone number
22 that would be called, would that be the phone

1 number on the account?

2 A. Correct.

3 Q. And what phone number is that?

4 A. (847) 353-7653.

5 Q. Okay. Do you have -- did you have receive

6 any other confirmation other than this computer

7 screen that the clerk, in fact, made a phone

8 call? For instance, did she -- did you follow up

9 with her?

10 A. She called me back and told me that she

11 left a message. That she did not get ahold of

12 anyone.

13 Q. But that she left a message on an

14 answering machine?

15 A. On an answering machine.

16 Q. Thank you.

17 And you remember those events

18 personally?

19 A. Yes, I do.

20 Q. Did Mr. Jakubik call back to schedule an

21 appointment?

22 A. No.

1 Q. Was the meter, in fact, exchanged on
2 August 15th?

3 A. Yes, it was.

4 Q. Okay. Did you personally direct the
5 exchange of the meter?

6 A. Yes, I did.

7 Q. Did you receive a phone call from --
8 strike that.

9 You personally directed the fieldworker
10 to go to the premises to conduct the exchange;
11 correct?

12 A. I scheduled the meter exchange on the
13 system, which is on the order history.

14 Q. Do you want to tell us where it is on the
15 order history.

16 A. Yes. The same last page under the code
17 COD column, there was a 76, which is code for
18 meter change. I wanted it done in the a.m. so
19 that's why there was an A put there.

20 And it was scheduled on August 14th at
21 1:15. It was schedule for 8/15, the next column
22 to the right. It was completed on 8/15 by

1 serviceman 64, and the reading is -- 6836 is the
2 reading on the old meter. In the next column it
3 says "action" and that it was completed on
4 August 15th.

5 Q. Did you have a conversation with the
6 fieldworker when he arrived at the premises but
7 before he conducted the exchange?

8 A. He was -- he did -- I had contact with
9 him. He contacted me actually stating that did I
10 really want this meter exchanged and I said, yes,
11 I did.

12 I had some more conversation with him.
13 I asked him, are all the tenants there? Was it
14 possible that we could get the meter exchanged
15 and completed do the relay all at once? And he
16 said he would let me know. He did call me back,
17 and he said four of the six were here at the
18 time. And he said the rest of the tenants said
19 that they were working or that they had just left
20 for work and that nobody was out of town.

21 Q. So did he inform you that he had
22 personally spoken with the tenants who were

1 actually at the premises?

2 A. Yes.

3 Q. And he informed them of the action Nicor
4 was intending to take?

5 A. Yes.

6 Q. And you instructed him to proceed?

7 A. Then I instructed him to proceed with it.

8 Q. Okay. Getting to this point, I want to
9 ask your opinion on whether that is action that
10 you personally wanted to take?

11 A. I personally did not want to shut anyone's
12 gas off for purpose this disconnect notice. Out
13 of my 15 years that I really had to follow
14 through and shut someone's gas off, I could
15 probably count on my hand.

16 Most of the time when somebody gets
17 something like this on their front door, you get
18 immediate action, you know, like this on their
19 front door. It's to get a response. It's to get
20 someone to call me.

21 Q. Okay. So in your mind, the purpose of the
22 form letters and the purpose of the disconnect

1 notice is to prompt the customer to act so that
2 the customer and Nicor can come to a mutually
3 agreed upon time to take this action?

4 A. Correct. We can make any type of
5 arrangements necessary. I have to do that all
6 the time.

7 Q. Okay. In your opinion was the
8 notifications that were provided in regards to
9 Mr. Jakubik's account consistent with the type of
10 notifications Nicor provides other customers
11 whose meter have been selected for the exchange?

12 A. Yes.

13 Q. And you say this even though there no
14 written guidelines that instruct you how to
15 notify customers?

16 A. Correct.

17 Q. You state that based on your 15 years of
18 experience?

19 A. Correct.

20 Q. Do you believe that Mr. Jakubik was
21 provided with reasonable notice?

22 A. I do.

1 Q. Do you believe that, in fact, he was
2 provided with more than sufficient notice?

3 A. Yes.

4 Q. When do you -- when do most customers
5 contact Nicor during the notification process?

6 A. The first letter.

7 Q. Are there any discrepancies between your
8 personal recollection of these events and the
9 information that is contained in the computer
10 system?

11 A. I believe in my ICC report there was a
12 date typo. The year was incorrect.

13 MS. NAUMER: And, your Honor, we're referring
14 to the document that we've distributed during
15 Mr. Jakubik's questioning, and referencing the
16 second page of that. Would you like me to show
17 you where the typo is?

18 JUDGE DOLAN: You can just tell me.

19 THE WITNESS: It was about the fifth line
20 down, the sentence that's stated, The owner and
21 another letter was sent on 8/8/03. That should
22 have been 8/8/02.

1 JUDGE DOLAN: Okay.

2 BY MS. NAUMER:

3 Q. And other than that, there's no
4 discrepancies between your personal recollection
5 and the information that is contained on the
6 customer order history?

7 A. No.

8 Q. In your opinion is the information then
9 that is contain in the customer order history
10 accurate and correct?

11 A. It's accurate and correct.

12 Q. Okay. I want to move on at this point to
13 the second interruption, which is the reported
14 gas leak.

15 And, again, it's my understanding you
16 were not personally involved in responding to
17 that report; is that correct?

18 A. That's correct. I was not.

19 Q. But you conducted an investigation after
20 the fact?

21 A. After the fact I conducted an
22 investigation.

1 Q. And what steps did you take in that
2 investigation?

3 A. It was twofold. One, I took a look at the
4 order history, and I was able to bring up a gas
5 leak call. And I can read the comments and the
6 service person out there and what he found, what
7 he did, what actions he had taken.

8 And then in addition to that, I just
9 talked to him. You know, I had him in the office
10 and said, well, what happened with this call?
11 What did you do there?

12 Q. You spoke with your fieldworker?

13 A. The fieldworker that handled the emergency
14 gas leak call.

15 Q. Okay. And is it your understanding that a
16 tenant in the garden unit called Nicor to report
17 the gas leak?

18 A. That is the information that was taken by
19 the call center when they issued the gas leak
20 call.

21 Q. Do you know whether the regulator on the
22 meter was damaged?

1 A. I did ask the service person that
2 responded. I wanted to know if the meter was
3 damaged -- the regulator was damaged in any, any
4 vandalism at all. And it was not.

5 Q. Okay. Looking back at Exhibit 8, which is
6 the order history, Page 2, is there a line in the
7 order history that indicates that Nicor received
8 the emergency phone call?

9 A. Yes, it did.

10 Q. And can you tell us where -- which line
11 that is.

12 A. Fifth line up. Let's say 549. It's an
13 indication that there's a gas leak or emergency
14 call at the meter set. It was received on 10/24
15 at 12:05. It was taken by operator 416.
16 Scheduled the same day. Completed the same day
17 by serviceman 51. A reading on the meter and the
18 action taken at the job was completed.

19 Q. Okay. I am now showing you what we have
20 marked as Nicor Exhibit 12.

21 Do you recognize this document?

22 A. Yes, I do.

1 Q. Is this another computer -- well, what is
2 it?

3 A. Computer-aided dispatching ticket.

4 Q. Okay.

5 A. CAD ticket.

6 Q. Okay. And so the information within this
7 would have been recorded the same way as the
8 other tickets we've looked at?

9 A. Correct.

10 Q. And, again, information cannot be changed,
11 modified, altered after the fact?

12 A. No, it cannot.

13 Q. And information that is entered is date
14 stamped accordingly?

15 A. Correct.

16 Q. The company relies on it in the regular
17 course of business?

18 A. Yes.

19 Q. Okay. Could you read what is contained
20 following the instructions, which is down on the
21 left-hand column?

22 A. After instructions to the right?

1 Q. Yes.

2 A. X means -- the clerk is trying to get a
3 cross street. In this instance, they put Buffey
4 Road, but Busse Road is the correct spelling. It
5 says slash -- back slash, Apartment 1-A, and then
6 there is a phone number. And it says, The meter
7 is by her window.

8 Q. Okay. So to the best of your knowledge,
9 is this the entry of the call in that reported
10 the gas leak?

11 A. This is entry -- this is the instructions
12 and information that the call center rep took
13 from the person calling in the gas leak.

14 Q. Okay. I see under the line that you just
15 read the same information that was contained in a
16 previous exhibit, and I believe it was exhibit --
17 I apologize. It was Exhibit 11. With regard to
18 the August 16th date for the meter exchange and
19 the phone message. Do you see that.

20 A. Yes, I do.

21 Q. Why is that information still contained on
22 this computer screen?

1 A. That information stays on there until
2 forever. Unless somebody purges it, that message
3 stays on there.

4 Q. Referencing the date at the top of the
5 document, it shows an order taken of 10/24/02?

6 A. Uh-huh.

7 Q. Why would that date be on -- why would
8 there not be another date that references the
9 August 16th meter exchange deadline and the call
10 for the meter exchange appointment? Why is there
11 not a separate date on the document for that?

12 A. On this CAD ticket, I don't believe the
13 CAD ticket would show that date on there. It
14 would show on the main frame access but not on a
15 CAD ticket.

16 Q. And is the reason that is new information
17 because information gets taken off?

18 A. That's possible.

19 Q. But you don't --

20 A. There also could -- I don't know for sure.
21 It could just be that there's not enough room for
22 it on the CAD screen versus the main frame.

1 Q. Okay. So following the report of the call
2 in, I would like to hand you Exhibit 15.

3 Okay. Do you recognize this document?

4 A. Yes, I do.

5 Q. And is the information contain herein
6 entered the same way as the previous exhibits
7 we've looked at?

8 A. Yes, they are.

9 Q. And, again, it's automatically maintained
10 by the computer?

11 A. Correct.

12 Q. And it cannot be altered?

13 A. Correct.

14 Q. What does the comments section of this
15 document provide?

16 A. It provides the service person that's
17 responding to the gas leak comments as far as to
18 what he has found and what he has done out there.

19 Q. And what are the comments?

20 A. Found reg passing badly. Replace same.
21 See 09 ticket.

22 Q. What does "reg passing badly, replace

1 same" mean to you?

2 A. That there was bad gas leak passing
3 through regulator. It maintains the pressure to
4 the building. Was passing through the vent on
5 the regulator. Replace same means to replace it
6 with a new one, and see 09 ticket. An 09 is a
7 regulator ticket, and he has to fill one of those
8 out whenever he takes out an old regulator and
9 puts in a new one.

10 Q. Okay. I would now like to direct your
11 attention to some time entries. In particular,
12 there are three columns, en route, at job, and
13 completed. Can you identify the time under the
14 en route column?

15 A. 12:08.

16 Q. And the at job column?

17 A. 12:18.

18 Q. And the completed column?

19 A. 12:48.

20 Q. What does en route mean to you?

21 A. En route means that he accepted that job
22 and that he is en route to that address.

1 Q. And referencing back to Exhibit 8, I
2 believe you said that the call came in at 12:05?
3 A. 12:05, the call came in at.
4 Q. So the fieldworker was en route within
5 three minutes?
6 A. Correct.
7 Q. Okay. Now, I'll show you Exhibit 14.
8 And do you recognize this document?
9 A. Yes, I do.
10 Q. And, again, the information is entered in
11 the same manner as the previous exhibits?
12 A. Correct.
13 Q. And it is automatically maintained by the
14 computer?
15 A. Correct.
16 Q. And it cannot be altered?
17 A. Correct.
18 Q. What is contained within the comment field
19 of this document?
20 A. It says, Replaced reg. Blue tagged door.
21 Six flat. As residents must be home or landlord
22 here to have access to all apartments.

1 Q. Again, what is the reason for needing
2 access to all the apartments?

3 A. That is the safety reason. You cannot
4 just turn the gas on to the building without
5 getting in to each and every apartment to check
6 the pilot light. You cannot leave pilot light
7 unlit.

8 Q. And what does blue tagged door mean?

9 A. Blue tag is a door hanger, door card that
10 is put on a door. It has information on it as
11 far as call us. That the gas is off. It gives
12 the phone number to Nicor and to call us 24 hours
13 day to get the service restored.

14 Q. Okay. Does it indicate on Exhibit No. 8,
15 which is the order history, that a blue tag
16 occurred?

17 A. Yes.

18 Q. Okay. Do you want to look at this? Can
19 you show us where it is?

20 A. Well, on the order -- sorry, on order
21 history, it wouldn't show that it was blue
22 tagged. It would be shown in his -- on the order

1 history, it shows phone track blue tag. That's
2 when the customer called in.

3 Q. Oh, it is. Okay?

4 A. And that is the clerk.

5 Q. That's the clerk in the call in center?

6 A. That's correct. She phone tracks the
7 call. She tries and takes the information the
8 customer is calling about and they phone track
9 the call.

10 And the customer in this instance, when
11 they called on August -- or 10/24 at 1556, they
12 were calling about a blue tag.

13 Q. Okay. Okay. I apologize.

14 The document 14 that we were looking at
15 previously indicates that a blue tag was placed
16 on the door?

17 A. That was by the service person, correct.

18 Q. Okay. I'm going to show you Nicor
19 Exhibit 15.

20 Looking at what's been marked as
21 Exhibit 15, do you recognize that?

22 A. Yes, I do.

1 Q. And what is it?

2 A. This is Nicor Gas' blue tag. It indicates
3 that the gas service has been disconnected while
4 we worked on our facility. And to call our
5 customer care center 24 hours a day, and it gives
6 them the number.

7 Q. And this is document that Exhibit 14
8 indicates was left?

9 A. Correct.

10 Q. Okay. Now, referencing back to
11 Exhibit 14, is it your understanding from reading
12 the comments that the residence were not all home
13 at the time that the emergency gas leak was
14 handled?

15 A. Correct, not all residents were home.

16 Q. And for that reason -- is it your
17 understanding for that reason the gas service was
18 not immediately reestablished?

19 A. That's correct.

20 Q. Okay. Did your -- it's also your
21 understanding that the service -- the fieldworker
22 did not just leave when he was unable to

1 reestablish service but he rather left a blue tag
2 on the door; is that correct?

3 A. Rephrase that.

4 Q. Is it also your understanding that given
5 that the fieldworker could not reestablish gas
6 service due to the absence of residents, that
7 rather than leave, he blue tagged the door?

8 A. Correct, he blue tagged the door.

9 Q. Is one of the reasons that this
10 information, information that all the residents
11 must be home included within the comment field
12 here so that when a customer calls in, that
13 information will be available to the service
14 representative who assists the customer?

15 A. Correct. The service representative at
16 the call center, she has access or they have
17 access to look up the call that was out there.
18 They'll be able to tell what actually went down
19 out there.

20 Q. Okay. And they'll be able to tell, you
21 know, for instance, of when the tenants comes
22 home and doesn't have gas, the customer service

1 representative will be able to inform them that
2 all residents need to be there for the relight?

3 A. Correct.

4 Q. Okay. Would the fieldworker also have
5 attempted to talk with the tenants prior to
6 leaving the premises?

7 A. He would explain -- whatever tenants that
8 were there, he would have explained the procedure
9 to them and left them probably also with a blue
10 tag. He explained to them that everybody needs
11 to be home and then we can reestablish the gas
12 service.

13 Q. Okay. And if all the tenants had, in
14 fact, been there, he would have gone ahead and
15 reestablish the gas service at that time?

16 A. Correct. If we would have access to all
17 six, it would have been relit.

18 Q. Okay. I'm showing you what's been marked
19 as Exhibit 16. Do you recognize this document?

20 A. Yes, I do.

21 Q. And what is it?

22 A. This is what we call the front of the

1 account. This would be the front page of the
2 account of 1711 Victoria Drive.

3 Q. And it contained keyed information as
4 well?

5 A. Yes.

6 Q. And that information would have been
7 entered the same way as the prior exhibits;
8 correct?

9 A. Correct.

10 Q. And once it is entered, it cannot be
11 altered?

12 A. No, it cannot.

13 Q. Can you read the comments that are
14 included on the this record.

15 A. L.L. -- it's abbreviated for landlord --
16 calling upset. Won't turn on until have access.
17 He is calling his lawyer. 972 indicates the
18 operator number. 02402 indicates October 24th of
19 '02.

20 But as the landlord does not have access
21 to all apartments. Very upset. Hung up 97 --
22 operator 972 on October 24th of '02. Per metro

1 dispatch, needs everyone home to issue 640. Very
2 upset. Operator 113 on October 24th of '02.
3 Landlord called wanting president. I'm guessing
4 officer. Per supervisor, told to call back
5 during regular business hours. Operator 659,
6 October 24th of '02.

7 Q. Does this indicate -- it states that the
8 caller was told to call back during regular
9 business hours.

10 Does the fact that a customer would be
11 calling after business hours impact whether or
12 not Nicor will reestablish service after business
13 hours?

14 A. No. We're on 24 hours a day. We would
15 come out any time to turn the gas on.

16 Q. Is it your understanding that the reason
17 Nicor could not take action at the time of the
18 call because access to all the apartments was not
19 available?

20 A. Correct.

21 Q. Okay. Going onto Exhibit 17.

22 And do you recognize this?

1 A. Yes, I do.

2 Q. What is it?

3 A. There's another CAD ticket. It's an order
4 detail for 1711 Victoria Drive.

5 Q. And, again, was the information entered in
6 the same manner as the prior exhibits?

7 A. Yes.

8 Q. And maintained in the same manner?

9 A. Yes.

10 Q. Can you read what is contain in the
11 comment field beginning with instructions?

12 A. It says, Call (847) 870-5668. Toby will
13 let you in. Must call ten minutes.

14 Q. And is the remainder of the information
15 what was contain in Exhibit No. 16 that we just
16 referenced?

17 A. Yes.

18 Q. Okay. Do you know who Toby is?

19 A. I do not.

20 Q. Did you -- well, I'm sorry.

21 Do you know whether or not Nicor would
22 have responded to this call?

1 A. Nicor would have responded to this call.

2 Q. And you would have responded by sending a
3 fieldworker to reestablish service?

4 A. Yes.

5 Q. Okay. Handing you what has been marked
6 Nicor Exhibit 18.

7 Okay. Do you recognize this?

8 A. Yes, I do.

9 Q. And what is it?

10 A. This is another CAD completion ticket.

11 Q. Okay. And, again, is the information
12 entered in the same manner as the prior exhibits?

13 A. Yes.

14 Q. And maintained in the same manner?

15 A. Correct.

16 Q. Can you read what is contained within the
17 comments field?

18 A. Turn on. Relit six apartments with
19 Village of Mount Prospect official in car 315.

20 Q. Does that indicate to you that service was
21 reestablished?

22 A. Yes, it does.

1 Q. Did a Nicor representative call the
2 Village of Mount Prospect in relation to this
3 matter?

4 A. No.

5 Q. How do you know that Village arrived at
6 this premises?

7 A. Maybe a tenant called.

8 Q. Okay. So this -- can you trace the
9 establishment of -- or the reestablishment of
10 service? Can you show us how that is confirmed
11 on Exhibit 8, which is the order history?

12 A. On the front page of the order history, in
13 the CDE column it says, 640. It was received on
14 10/25 at 12:28 by operator 055. Was scheduled on
15 the same date, 10/25/02 and was completed on
16 10/25 by serviceman 17 with that reading and what
17 was on the meter and showed the action was
18 completed.

19 Q. Okay. We have just looked at a number of
20 exhibits that document calls into Nicor to
21 reestablish service following the report of the
22 gas leak. We did not introduce any documents or

1 look at any documents with respect to calls into
2 the company following the meter exchange
3 replacement.

4 Do you know if there was a call that was
5 made to the company following the meter exchange
6 replacement?

7 A. There was a call to Tom Fisher's office.

8 Q. And who is Tom Fisher?

9 A. Tom Fisher is the president. He's the CEO
10 of Nicor.

11 Q. Do you know who called into his office?

12 A. It was Mr. Jakubik.

13 Q. Are calls into Mr. Fisher's office
14 recorded?

15 A. No.

16 Q. Would somebody have entered a record of
17 that call into the order history?

18 A. No.

19 Q. How did you become aware of that phone
20 call?

21 A. Mr. Fisher's secretary knows -- has a list
22 of all the supervisors and responsibilities.

1 Within Mount Prospect, it was my area that I was
2 responsible for, a town that I was covering for.

3 Q. And so did -- was Mr. Jakubik's call
4 referred to you?

5 A. Yes, it was.

6 Q. And did you, in fact, contact him?

7 A. Yes, I did.

8 Q. Did you, in fact, handle the
9 reestablishment of service following the meter
10 exchange replacement personally?

11 A. Yes, I did.

12 Q. And can you tell me what happened upon you
13 going out to the premises?

14 A. I waited until I was able to get -- see
15 how many tenants would come home. At one point
16 in time, I didn't believe there was going to be
17 anymore coming home. It was around 7:00 or
18 8:00 o'clock that night. And I initiated another
19 phone call and left message with Mr. Jakubik that
20 there was at least two apartments that we
21 couldn't get in, and to call me back.

22 And he called me back on my cell phone

1 and said he would be right down. And he was able
2 to give us access to the remaining apartments
3 that we needed to get in for the relight.

4 Q. And how long -- at what time did you go to
5 the premises to complete this reestablishment of
6 service?

7 A. I started -- went back around 4:30.

8 Q. And how long were you there?

9 A. Till 9:00 o'clock that night.

10 Q. Referencing back to the report of the
11 emergency gas leak, did Nicor -- based on your
12 investigation, did Nicor take any action to
13 notify or contact Mr. Jakubik at the time of the
14 reports as Nicor was responding to the report?

15 A. Responding to the report of the gas leak?

16 Q. Yes.

17 A. We would not have made any phone call.

18 Q. The only notice of the action that was
19 taken occurred after the fact of the blue tagging
20 of the door?

21 A. And talking to the tenants.

22 Q. Okay. Why would Nicor not initiate a

1 phone call when there's a report of a gas leak?

2 A. It's for safety reasons.

3 Q. And what are the safety reasons?

4 A. You have no have idea what the explosive
5 limit is there, we don't know what kind of gas
6 leak it is; and setting off, you know, a phone or
7 even ringing a doorbell could set off an
8 explosion.

9 Q. Well, what about if it's a situation like
10 Mr. Jakubik's who is the landlord and he is not
11 located at the premises? Why can't Nicor make a
12 phone call in that situation?

13 A. Well, service people don't have phones in
14 their truck. And the gas leak hasn't even been
15 thoroughly investigated. It might not even be a
16 gas leak out there. We get called for numerous
17 odor calls, and that would not be a gas leak out
18 there.

19 Q. Do you think it would be prudent for Nicor
20 to try to distinguish which buildings are
21 apartment tenant buildings where a landlord
22 resides elsewhere for purposes of making phone

1 calls due to the fact that a mistake could be
2 made in such a situation as to where the phone
3 was located?

4 A. It's possible.

5 Q. It's possible a mistake could be made?

6 A. Uh-huh.

7 Q. And if the mistake would be made, that
8 would -- that could cause or escalate the
9 situation?

10 A. Correct.

11 Q. And I believe you stated that the
12 fieldworkers who respond to the emergency
13 situation, you stated they do not have phones in
14 their cars?

15 A. No, they do not.

16 Q. Can you explain what type of communication
17 devices they have in their vehicles?

18 A. They have two forms of communication.
19 They have their CAD device, which is
20 computer-aided dispatching. It is a laptop.
21 That allows them to site -- to type in a message
22 to the dispatcher.

1 The second form is a voice radio,
2 Motorola voice radio that they can verbally talk
3 on and communicate with the dispatcher.

4 Q. So the communication devices are to permit
5 them to communicate with Nicor employees?

6 A. Correct.

7 Q. Following the blue tagging of the building
8 following the repair of the report leak and
9 speaking with the tenants, do you feel that any
10 further notification was necessary?

11 A. No.

12 Q. Okay.

13 MS. NAUMER: Just one second.

14 I have nothing further.

15 JUDGE DOLAN: Okay. Mr. Jakubik, do you want
16 to do cross-examination?

17 MR. THOMAS JAKUBIK: Okay.

18 JUDGE DOLAN: Proceed.

19 CROSS-EXAMINATION

20 BY

21 MR. THOMAS JAKUBIK:

22 Q. You stated on August 15th you called me

1 when you were there doing the relight after the
2 meter exchange?

3 A. Correct.

4 Q. How did you make the call?

5 A. On my cell phone.

6 Q. Okay. So you do have phones?

7 A. I, as supervisor and management of
8 employees, am entitled to a car phone.

9 Q. Is it possible from your Motorola system
10 that a fieldworker would call in to dispatch and
11 get connected to a landline?

12 A. No.

13 Q. On a Motorola system you can't dispatch
14 and get connected to a landline?

15 A. Not on our system.

16 Q. And dispatch wouldn't call anyway?

17 A. No, dispatch as far as -- a dispatcher can
18 call a customer, yes. A dispatcher can call.
19 They have the phone at their desk.

20 Q. Right. So that the operator has a way of
21 communicating outside; correct?

22 A. The dispatcher has a way of communicating

1 to a customer through a phone.

2 Q. Correct.

3 A. A mechanic or a service personnel in the

4 field, no, would not have a --

5 Q. If you need to make a call, they can

6 transfer it? They could somehow communicate to

7 get to an outside line?

8 A. No, they cannot.

9 Q. If the dispatcher calls -- if the operator

10 calls the dispatcher and says, Hey, can you call

11 this number and check this out, the dispatcher is

12 not allowed to make a phone call?

13 A. The dispatcher is allowed to make the

14 phone call, but there is no -- you cannot

15 transfer a landline to --

16 Q. Can they relay information?

17 A. They can relay information, yes. They

18 could talk.

19 Q. So they do that on a regular basis?

20 A. If they need a phone call made or

21 something.

22 Q. Okay. Let's see, we go to -- I think I

1 gave you a document. It's a -- it looks like a
2 printout of a computer screen. It's -- it has a
3 list of your ticket numbers on it. It starts at
4 April 3rd, '00. It goes to --

5 THE WITNESS: Can I get a copy of that?

6 MS. NAUMER: Just one minute. The witness
7 doesn't have a copy.

8 MR. THOMAS JAKUBIK: It was in the stack. I
9 gave him a stack.

10 MS. NAUMER: You gave me a stack. Is this it?

11 MR. THOMAS JAKUBIK: Yeah. Yes, it is.

12 JUDGE DOLAN: Now, which page are you talking
13 about?

14 MR. THOMAS JAKUBIK: Print screen. It starts
15 at the -- at the bottom it has a first date of
16 April 3rd, '00.

17 JUDGE DOLAN: Okay.

18 MR. THOMAS JAKUBIK: The last date is
19 10/25/02.

20 JUDGE DOLAN: Okay.

21 BY MR. THOMAS JAKUBIK:

22 Q. I'm referring to the CAD tickets on the

1 right side.

2 A. Okay.

3 Q. The first three CAD tickets we've already

4 discussed. Okay?

5 A. From the bottom?

6 Q. No, from the tomorrow. I'm sorry.

7 0186, 0240 and 0283 we've already

8 discussed.

9 Today you presented a CAD ticket which

10 is the second from the bottom, 0177.

11 A. Uh-huh.

12 Q. Is there a reason that wasn't provided

13 before?

14 MS. NAUMER: I'm sorry, which one?

15 MR. THOMAS JAKUBIK: 0177.

16 MS. NAUMER: You know, I believe we -- to the

17 extent this was not provided, it was an

18 oversight. I don't think that we were aware of

19 the discrepancy.

20 To the extent it wasn't, however, this

21 is information that was already -- the

22 information itself was already contained in

1 Exhibit 8. The information was traced back over
2 to it, I believe.

3 Yeah, it's line -- the fifth line from
4 the bottom shows the completed action.

5 BY MR. THOMAS JAKUBIK:

6 Q. Okay. Would you say the CAD ticket is a
7 little more explan- -- has more of an explanation
8 to it than this printout of the computer screen?

9 A. The order history is a brief summary of
10 it. A CAD ticket, yes, would give you detailed
11 information.

12 Q. So you didn't have that. Okay.

13 Can you then tell me where the copy of
14 the CAD tickets for 0358, 0072, 0137 --

15 JUDGE DOLAN: Let's take them one at time.

16 Okay?

17 BY MR. THOMAS JAKUBIK:

18 Q. All right. Where is CAD ticket 0358?

19 May I back up a second? Let me drop
20 that.

21 If we refer to CAD ticket 0186, okay?

22 A. Okay.

1 Q. Each one of these -- and you have copies
2 of these. There is a -- several print screens on
3 these things, which means that every CAD ticket
4 would have several sub-tickets or explanations or
5 whatever you want to say about it.

6 That is -- 086 has a description, and it
7 has several pages to it. Is that common with all
8 CAD tickets?

9 A. A CAD ticket could possibly have, like,
10 three or four, yes.

11 Q. Okay. All right. So if we go over the
12 CAD tickets we did receive, which the next one
13 was 0240, there are also three pages to it?

14 A. Yes.

15 Q. It gives more description.

16 So then I go down to the CAD tickets
17 0358, which I was asking before, there would be
18 several pages to that. Could you tell me where
19 those pages are?

20 A. The first one I can tell you is 0358. You
21 see that it says it's a code 110. That will be
22 handled out of our metering department. That is

1 just a read call. You see CO complete. CO
2 complete says it was not done on a CAD ticket.
3 It was done on paper document, and it was to read
4 the meter.

5 Q. Okay. And how -- and the next one, 0072?

6 A. 072, I don't understand why, myself, why
7 there's two -- two of the file numbers. The 72
8 indicate a file number. And, again, it was an
9 instance where in 11-B or in a 110 indicates that
10 it needs to be reread.

11 Q. Is there some kind of a -- more of an
12 explanation than just this line?

13 A. Without having it here, I don't have a
14 possibility of looking up the 11-B and the 110.

15 Q. Okay. How about the next CAD ticket,
16 0137?

17 A. 0137 is the 768 on that day on
18 August 15th.

19 Q. Where would you think following pages are?

20 A. I don't know what you were provided. I
21 don't know what he was provided. I mean, there's
22 probably -- with each one of these tickets

1 there's an additional page.

2 Q. Okay. How about 0304?

3 A. 0304, there will not be one because what
4 happened there is, you see in the work status,
5 the ticket was interrupted and it was then
6 completed later. And you'll see a 64-R in the
7 next bottom line. That's how that ticket was
8 completed then. The 64-R meaning that the call
9 kind of got, like, rescheduled but then it was --
10 the work status was that it was field completed.

11 Q. Okay. Where is CAD ticket 0315?

12 That's the one that we're talking about.
13 That's the completed one.

14 Well, we never got it. So, how about
15 CAD ticket 0009?

16 A. 009, that was meter reading ticket. It
17 was showing that you took service over on that
18 day, April 3rd of 2000. And it's just a reading
19 ticket showing establishing a new customer at
20 that address.

21 Q. And there wouldn't be any other screens
22 behind it or forward or anything like that?

1 A. No.

2 Q. Okay. So we have several tickets that we
3 don't have.

4 Let's go to your exhibit. Your
5 Exhibit 8.

6 Okay. Can you explain to me how you're
7 instructed to contact people for meter
8 replacements?

9 A. So if I have a meter --

10 Q. I'm saying the owner.

11 A. Meter exchange at an address?

12 Q. Correct. Particularly 1711 Victoria
13 Drive.

14 A. I would send letter 57, the first letter,
15 to go out, wait for a response. If I don't get a
16 response, I would escalate it to letter 213.
17 From there, it would end up getting posted.

18 Q. Uh-huh.

19 A. And if there was still no contact, we
20 changed the meter.

21 Q. Can you tell me what area of the -- how
22 large is the area that you would be responsible

1 for replacement of this meter? Does that include
2 Palatine, Mount Prospect, Arlington Heights,
3 Des Plaines?

4 A. My area was from the Lake from Chicago,
5 not including Chicago, but up to Evanston border
6 up north to Kenilworth, out west to Northbrook,
7 Mount Prospect, Des Plaines. Mount Prospect was
8 the furthest west that I'd ever go.

9 Q. How about north?

10 A. North would be Northbrook, Deerfield.
11 South would be --

12 Q. Do you up to Deerfield?

13 A. There was only a couple of accounts in
14 Deerfield.

15 Q. All right. Well, if you're on Deerfield
16 and you're going west, you'd cover Wheeling?

17 A. I do not cover -- I would not have --
18 Wheeling would not be my area.

19 Q. So these procedure that you have are
20 typical through out the company; correct?

21 A. For every supervisor, yes.

22 Q. And they generally don't vary from that;

1 right?

2 A. I don't believe so, no.

3 Q. Okay. On your ticket -- or your

4 Exhibit 12, if you go down about 15 lines down,

5 it says computer call ahead, denied. Then it has

6 a telephone number. What does that represent?

7 MS. NAUMER: Hang on.

8 THE WITNESS: Hang on till I get 15.

9 Computer call ahead. It says deny there

10 in the middle of the page. That was a program

11 that was put in with the CAD system. However, it

12 really never worked the way it was sold to us.

13 So it hasn't even worked.

14 BY MR. THOMAS JAKUBIK:

15 Q. What would be its function in the design?

16 A. The premise around that was if a customer

17 had scheduled an order, the mechanic when he

18 accepted that ticket would highlight it in his

19 CAD terminal and hit the button that's on his CAD

20 terminal that would say call ahead. And it

21 would -- the computer system would automatically

22 generate a general call within the number that

1 was provided when the customer scheduled the
2 order. And it would just be a general order. It
3 says Nicor Gas is on the way.

4 Q. Okay. If you look to one your computer --
5 let's see, CAD forms dated 10/25.

6 MS. NAUMER: I'm sorry, what exhibit are you
7 on?

8 MR. THOMAS JAKUBIK: This is ticket number --
9 0186 is the last digits.

10 MS. NAUMER: It should have an exhibit number
11 on the top right corner.

12 MR. THOMAS JAKUBIK: Well, I don't know. Let
13 me see.

14 JUDGE DOLAN: It's Exhibit 18.

15 MS. NAUMER: Okay. Thank you.

16 MR. THOMAS JAKUBIK: Well, my Exhibit 18 is
17 different than your Exhibit 18. We got two
18 copies of it. Must be a different page.

19 MS. NAUMER: It's Exhibit 17.

20 MR. THOMAS JAKUBIK: Yes, it is.

21 BY MR. THOMAS JAKUBIK:

22 Q. Then if we go down -- again, it says,

1 Computer call ahead, allowed. First, it was
2 denied. Now it's allowed.

3 A. And there's two reasons for that. The
4 call that you were -- the first one, whatever
5 exhibit that was, where it said denied --

6 JUDGE DOLAN: 12.

7 THE WITNESS: That call was issued as an
8 emergency call, so we are not -- you cannot call
9 a customer on a gas leak call because of the
10 potential safety problem with an explosion. The
11 call here on Exhibit 17, turn on, and the system
12 with allow it there.

13 BY MR. THOMAS JAKUBIK:

14 Q. Yeah, but you're saying the system doesn't
15 function.

16 A. It does not function but the part of the
17 program is still in there but it doesn't work.

18 Q. So then, even though it says it's allowed
19 to make a call, you have no idea if it's ever
20 been made.

21 A. In this instance --

22 Q. The system doesn't function.

1 A. Well, in this instance, the instructions
2 tell the mechanic that a call needs to be made to
3 Tobey, and what the mechanic will do is send a
4 message to the dispatcher saying, Call this one,
5 I'm ten minutes away.

6 Q. Oh, so then the dispatcher -- so the
7 mechanic can get an outside line as we talked
8 about; right?

9 A. The mechanic cannot get one from his
10 truck, but the dispatcher could make the call for
11 him.

12 Q. So if he needed to talk to somebody about
13 a disconnection, he could figure out a way to do
14 that, correct, and call the customer?

15 A. Can you rephrase that.

16 Q. If he's at a site and he needs to contact
17 the owner of the property, he has the ability to
18 do that?

19 A. Through the dispatcher.

20 Q. Correct, which is what you're stating
21 here. He had the ability at this instance to
22 call Tobey?

1 A. The dispatcher did, yes.

2 Q. Right.

3 A. Not the service personnel.

4 Q. Which relayed the information to the

5 service personnel; correct?

6 A. The service person cannot make a phone

7 call and cannot --

8 Q. I understand that. But he relayed the

9 information?

10 A. Who relayed --

11 Q. Service personnel talked to dispatch,

12 dispatch talked to Tobey, Tobey talked to

13 dispatch, dispatch talked to service personnel?

14 A. Dispatch sends him a message back,

15 correct.

16 Q. Right.

17 A. If he got ahold of Tobey.

18 Q. Right.

19 So he does have a way of communicating

20 on the outside to make phone calls; doesn't he?

21 A. No, he does not.

22 The service person does not have the

1 capability to make a phone call. He has a
2 dispatcher that could make the phone call for
3 him.

4 Q. Correct.

5 A. Correct.

6 Q. Right. He does have access to the outside
7 world through the dispatcher?

8 A. Correct.

9 JUDGE DOLAN: All right. I think that's been
10 established, so let's move on.

11 BY MR. THOMAS JAKUBIK:

12 Q. How do you -- when you sit down at the
13 computer and you send these letters, how do you
14 send these letters? Do you physically handle
15 them?

16 A. No, I do not.

17 Q. And they go from you to where? Where do
18 they actually leave the facility and what
19 facility do they actually leave?

20 A. The facility that they would leave would
21 be the corporate office in Naperville.

22 Q. So you physically don't touch them, so you

1 have no idea if they actually leave?

2 A. I do not touch them.

3 Q. When I requested a copy of these letters,
4 why were you unable to have the computer generate
5 another copy and send it out?

6 MS. NAUMER: You know what, that's a legal
7 area. Number one, we are not asked -- in
8 responding to discovery, we are not required to
9 create a new document. We provided the standard
10 form, which is the standard form that when -- we
11 should not have reissued another form letter for
12 Mr. -- it wasn't something we were asked or
13 required to do.

14 MR. THOMAS JAKUBIK: Yeah, I asked
15 specifically for a copy of the letter that you
16 sent; and it was a matter of pressing a button on
17 a computer and the computer would have generated
18 letter that you purportedly sent.

19 MS. NAUMER: That would be creating new
20 evidence. I've represented a hundred times at
21 this point that the original copy of the letter
22 that was sent was not kept. The only thing

1 that's kept is a copy of the form.

2 JUDGE DOLAN: I think we did discuss this at a
3 prior because I asked them why they didn't
4 provide the original letter, and the response was
5 that these letter are routinely typed over with
6 new addresses. And I do recall discussing that.

7 MR. THOMAS JAKUBIK: Well, I understand that,
8 but the computer, since it's already in the
9 system, asking it to duplicate the instruction
10 that it did on -- whatever these dates were -- it
11 would duplicate the same item. So it wouldn't
12 be, like, creating something new. You're just
13 running it off again.

14 MS. NAUMER: We weren't asked to --

15 JUDGE DOLAN: All right. All right. Is there
16 any relevance to this question, Mr. Jakubik?

17 MR. THOMAS JAKUBIK: Well, my challenge is, is
18 that I only received one letter. So I'm trying
19 to find out if these letters ever go out because
20 I never got one.

21 JUDGE DOLAN: Okay.

22 MR. THOMAS JAKUBIK: So I'm looking for

1 evidence saying that they actually mailed it.

2 And this is what I'm being denied.

3 MS. NAUMER: That doesn't exist. The physical
4 copy of the letter was not maintained. I mean,
5 it goes off into the U.S. Postal Services, and we
6 don't have access to that information.

7 I mean, the purpose of U.S. Postal
8 Service is to deliver it to the address, and
9 we've been down the road that the address that
10 the computer would have generated would have been
11 addressed to the complainant.

12 BY MR. THOMAS JAKUBIK:

13 Q. On the disconnection or the exchange, the
14 meter exchange at 1711 Victoria Drive, when did
15 you -- what date do you recall you received the
16 request to replace the meter?

17 MS. NAUMER: To the extent you know.

18 THE WITNESS: I would say July, at the end of
19 July.

20 BY MR. THOMAS JAKUBIK:

21 Q. Is there a ticket to that effect?

22 Forget that. Cancel it.

1 Where is the company directive that says
2 that these things have to be replaced in 15 days
3 or 20 days?

4 A. I don't believe there is a document
5 that -- stating that.

6 Q. So there is no urgency. There's nothing
7 that states when they have to be replaced?

8 A. There is just the internal deadline date.

9 Q. And where is that document?

10 A. There is no document on that. I'm told
11 that.

12 Q. So there's nothing at Nicor that has a
13 policy in place that's supposed to replace meters
14 every year to printout this form. You're
15 advising me that you did this in 16 days from the
16 date you got this request, but there's nothing in
17 Nicor that says with and when or how urgent this
18 is to replace?

19 A. I'm not positive of what you're asking
20 for. The program has to be completed within one
21 year, but there are a number of steps that you
22 have to have to have an internal deadline date to

1 make that goal of the compliance issue.

2 Q. Right. Okay. So where is the document

3 that has this schedule?

4 MS. NAUMER: Objection. Asked and answered.

5 He's already said there is not a document where

6 it's written down.

7 BY MR. THOMAS JAKUBIK:

8 Q. Whether the 16 days come from?

9 A. It was due to the fact of the meter

10 exchange needing to be done by the 16th.

11 Q. Okay. How? What -- who decided it has to

12 be done by the 16th? What document at Nicor says

13 it has to be changed by the 16th?

14 A. There is no document that says it had to

15 be changed by the 16th.

16 Q. So it's totally arbitrary when you picked

17 out 16 days?

18 MS. NAUMER: Objection. Mischaracterization.

19 JUDGE DOLAN: Sustained.

20 Rephrase your question, Mr. Jakubik.

21 BY MR. THOMAS JAKUBIK:

22 Q. So there isn't any schedule that says how

1 often or when this has to be done? There's
2 nothing in your system that has any type of a
3 time line?

4 A. No, there isn't.

5 Q. So 16 days is -- just came from --

6 MS. NAUMER: Your Honor, I need to object to
7 the repeated characterization of 16 days. 16
8 days -- Mr. Krueger has testified that the first
9 day he sent the letter was July 30th and that he
10 did that soon after being notified of that --
11 this meter was -- he never said exactly what that
12 date was. So I think 16 is -- it's not in the
13 record.

14 JUDGE DOLAN: For what it's worth,
15 Mr. Jakubik, rephrase your question, please.

16 MR. THOMAS JAKUBIK: Well, I don't know how
17 direct I can get. I'm just asking where is it in
18 Nicor information that states how fast these
19 items have to be replaced.

20 MS. NAUMER: I'm sorry, could you repeat the
21 question.

22 MR. THOMAS JAKUBIK: Where is it in Nicor's

1 information instructions?

2 MS. NAUMER: Asked and answered.

3 BY MR. THOMAS JAKUBIK:

4 Q. So there isn't any date? Just whenever

5 you feel like it?

6 MS. NAUMER: Objection. That's not a correct

7 characterization of his testimony.

8 BY MR. THOMAS JAKUBIK:

9 Q. This is a big corporation. There must

10 be -- are you trying to tell me that a

11 corporation the size of Nicor there is

12 actually -- there is no control and no written

13 information that says where and -- you're saying

14 there's a directive for one year but you -- there

15 is no -- you don't have it.

16 MS. NAUMER: Objection. Argumentative.

17 There's not a question within that statement.

18 BY MR. THOMAS JAKUBIK:

19 Q. Where is the directive that says you have

20 to replace --

21 JUDGE DOLAN: When she objects, I need to

22 respond.

1 MR. THOMAS JAKUBIK: Sorry, sir.

2 JUDGE DOLAN: All right. I am going to

3 sustain that objection because there was not a

4 question in that.

5 So if you want to proceed, go ahead.

6 BY MR. THOMAS JAKUBIK:

7 Q. On this letter that we have as

8 Exhibit. . . well, letter 57.

9 JUDGE DOLAN: Nicor Exhibit 4.

10 BY MR. THOMAS JAKUBIK:

11 Q. If you received letter -- document 4, is

12 anywhere in that letter say there's any urgency,

13 in your mind?

14 A. Not reading it, no.

15 Q. So if you received a letter like that,

16 you'd make a phone call but there's nothing in

17 there that states you had to immediately make a

18 phone call?

19 A. No. I would have just made the phone

20 call.

21 Q. Right. In a reasonable period of time,

22 right?

1 A. What's reasonable?

2 Q. Right. What's reasonable? That's why

3 we're here.

4 Can you on -- sorry, sorry, sorry.

5 On the CAD ticket you have here, which

6 0283, we referred to it before about allowing a

7 phone call. Just below that --

8 MS. NAUMER: Could you hold on.

9 MR. THOMAS JAKUBIK: I'm sorry.

10 JUDGE DOLAN: Is it Nicor Exhibit 14?

11 Oh, Nicor 11.

12 MR. THOMAS JAKUBIK: That's 240.

13 I have -- well, it's in the pile of

14 stuff -- this one refers to instructions 2514, is

15 what I'm trying to get to here.

16 BY MR. THOMAS JAKUBIK:

17 Q. What does this refer to?

18 A. 2514 is the truck number, and he requested

19 this ticket, the 09, because he was on the gas

20 leak call and he had to replace the regulator; so

21 he's asking -- he had probably sent the message

22 in to the dispatcher saying I need a regulator

1 change ticket. And when the dispatcher does it
2 so they know who, it goes to truck 2514.

3 Q. Okay.

4 A. That is their truck number.

5 JUDGE DOLAN: Okay.

6 MR. THOMAS JAKUBIK: Okay. I'm done.

7 MS. NAUMER: Could we take one break, your
8 Honor, before we redirect.

9 JUDGE DOLAN: Yes.

10 (Whereupon, a brief
11 recess was taken.)

12 JUDGE DOLAN: Back on the record.

13 REDIRECT EXAMINATION

14 BY

15 MS. NAUMER:

16 Q. Mr. Krueger, you had some questions asked
17 from Mr. Jakubik regarding an obsolete system
18 pursuant to which calls could be made out. And
19 they're indicated, for example, on Exhibit 17.
20 There's a call ahead allowed.

21 It is your testimony that that system no
22 longer is operational?

1 A. Correct.

2 Q. Even if that system were operational,
3 would it have permitted a call when there has
4 been a reported gas leak?

5 A. No.

6 Q. And why is that?

7 A. Because of safety reasons. You don't want
8 the phone ringing at a potential gas leak.

9 Q. You also had some questions regarding the
10 fieldworker's ability to use his communication
11 device to call the dispatch who could relay his
12 message via phone calls that the dispatch
13 operator would make to an outside line. Do you
14 recall those questions?

15 A. Yes.

16 Q. In an emergency situation with a report of
17 a gas leak, would the dispatcher who has access
18 to the telephone line ever make a phone call even
19 if requested to on behalf of the fieldworker to
20 the customer on that account when there's been a
21 reported gas leak?

22 A. No, not on a gas leak.

1 Q. And is that, again, for the same safety
2 concerns?

3 A. For the same safety reasons.

4 MR. THOMAS JAKUBIK: Excuse me, I'll stipulate
5 that, on the gas leak situation, that you
6 couldn't make a phone call.

7 MS. NAUMER: Okay. Thank you.

8 BY MS. NAUMER:

9 Q. You were also asked some questions in
10 regards to how the internal deadlines for the
11 meter exchange process are determined.

12 Do you know what process takes place at
13 the company to establish those internal
14 deadlines?

15 A. Well, we have history based. It's
16 obviously based on history from years past of how
17 the meter exchange program ran and how long it
18 took us to complete it. A year to remain in
19 compliance.

20 We have scheduling or phone calls from
21 our dispatching letting us know where we stand on
22 getting this set of -- this round of meter

1 changes done. And it's updated weekly all the
2 time.

3 Q. So would it be a correct characterization
4 that the internal deadlines are based on how long
5 it took the company to perform each phase of the
6 meter exchange program in the prior years as well
7 as a constant assessment of how the company is
8 progressing in the year in question?

9 A. That's correct.

10 Q. And, again, you have meetings about that
11 you verbally communicate with each other about
12 it?

13 A. That's correct.

14 Q. Okay. Approximately, how many meters does
15 Nicor change every year?

16 A. Approximately about 10,000.

17 Q. Would it be practical for Nicor to call
18 all 10,000 customers and keep calling until they
19 got ahold of them in order to schedule these
20 meter exchanges?

21 A. We probably would be able to complete it
22 within a year, and it would be impractical to try

1 and accomplish that.

2 Q. Just because of the sheer number?

3 A. The sheer number, the volume.

4 MS. NAUMER: Okay. That's all we have.

5 JUDGE DOLAN: Any recross?

6 MR. THOMAS JAKUBIK: Yes. Can I enter my

7 third occurrence? Is that a good time for it?

8 MS. NAUMER: I'm sorry?

9 JUDGE DOLAN: Not on cross-examination of this

10 witness.

11 MR. THOMAS JAKUBIK: Well, it would have to do

12 with the importance and the scheduling and the

13 timing of replacing meters. Would that be right?

14 If I show it to you, can you take a look at it

15 and see if it's a good time to do that?

16 JUDGE DOLAN: If it pertains to this witness,

17 you can ask your questions. But it should be

18 related to the previous testimony that he's

19 already testified to.

20 MS. NAUMER: Oh, a third occurrence? Oh.

21 Your Honor, I'm going to object to this

22 entire line of questioning. This is my first

1 awareness that -- of some occurrence on
2 December 16th. It's beyond the scope of his
3 complaint. Nobody in this room on behalf of
4 Nicor is prepared to address another matter.

5 MR. THOMAS JAKUBIK: It's addressing -- excuse
6 me, it's addressing the fact that he just
7 testified, that when they do a meter exchange,
8 they first send a letter and then they send
9 letter, then they make a phone call. Then they
10 go and tag a building.

11 This will refute the whole process
12 because it's on tape. Judge, do you want to
13 listen to the tape.

14 JUDGE DOLAN: No, I don't want to listen to
15 the tape.

16 MR. THOMAS JAKUBIK: It's short.

17 MS. NAUMER: Your Honor, it's beyond the scope
18 of the complaint.

19 JUDGE DOLAN: All right. Just -- Mr. Jakubik,
20 this is what we like to call as surprise
21 evidence. And -- this doesn't affect your
22 complaint for the Victoria in Mount Prospect.

1 If you wanted to introduce this
2 document, you would have had to do this in your
3 direct case. You can't wait till your
4 cross-examining this witness to try to bring up a
5 new occurrence. Procedurally, I cannot allow it.

6 MR. THOMAS JAKUBIK: So I have to file another
7 complaint?

8 JUDGE DOLAN: Yes, sir.

9 MR. THOMAS JAKUBIK: Okay. I'll give you back
10 your document here.

11 MR. THOMAS JAKUBIK: Okay.

12 JUDGE DOLAN: Because it doesn't have any
13 bearing on this matter.

14 JUDGE DOLAN: Do you have any other questions
15 on cross-examination?

16 MR. THOMAS JAKUBIK: No, you denied my
17 discovery, and denied -- no, that's okay. I'll
18 just do something different. I'm fine.

19 JUDGE DOLAN: All right.

20 The way the process works is that you
21 have to present your case. They have an
22 opportunity to respond to your case and then you

1 can respond or reply to their response. But you
2 cannot bring up a new allegation during their --

3 MR. THOMAS JAKUBIK: I'm not bringing up a
4 new -- excuse me, I'm not bringing up a new
5 allegation. I brought up information that
6 refutes what he said.

7 I'm not accusing him of anything. I'm
8 saying that what they testified to and what Nicor
9 has just done is opposite every they testified
10 here for three hours. It's just straight
11 information.

12 It says that it isn't true what he says
13 about the letters, about the phone calls, about
14 the tagging of the building. And it just
15 happened. It's current information that just
16 happened. It's refuting. It's not new.

17 JUDGE DOLAN: So -- well, you say it's a third
18 occurrence; so are you stating that it's a new
19 complaint?

20 MR. THOMAS JAKUBIK: No, I'm not -- I'm using
21 this to refute what he said. His whole testimony
22 was, is that the procedure that they used for

1 taking and exchanging gas meters was. This, by
2 Nicor, refutes everything he said. The tape
3 refutes everything he says.

4 MS. NAUMER: Number one, I don't think
5 that's -- I mean, this is in relation to a
6 different meter exchange at a different location
7 that occurred on a different time.

8 I mean, there is a different -- I mean,
9 number one, it's just beyond the scope. We've
10 had no opportunity to review this material to ask
11 him questions about it, to conduct our own
12 discovery in relation to it. We've had no time
13 to factor it in to our own investigation of the
14 matter. It's in relation to a completely
15 different address, a completely different date.
16 It just doesn't --

17 MR. THOMAS JAKUBIK: Which you testified -- it
18 says that our procedure is at Nicor to send one
19 letter, send two letters, make a phone, call tag
20 a building. This is -- directly refutes what
21 you've said. It's on tape, so you can, you know,
22 do what you want, but that's what it says.

1 JUDGE DOLAN: Now, is the tape of a phone
2 conversation with another person or is it just --

3 MR. THOMAS JAKUBIK: It's tape-recording of a
4 message left by Nicor.

5 MS. NAUMER: Your Honor, another area where
6 this could be different -- again, this is all
7 brand-new information. It's not something we've
8 had an opportunity to consider to, you know,
9 investigate, review anything; but off the top of
10 my head, there are a couple of distinctions that
11 must most likely can be made with regard to this.
12 Number one, this could be a residential as
13 opposed to a commercial account.

14 MR. THOMAS JAKUBIK: It's a six-unit apartment
15 building.

16 MS. NAUMER: Okay. And, number two -- and
17 this is probably pretty important -- is there are
18 different phases. And you've heard testimony
19 about different phases of the process. It's an
20 annual process. There are different phases.

21 Mr. Jakubik at the subject premises that
22 we're here to discuss today about -- and which

1 Mr. Jakubik's complaint was limited to --
2 occurred in phase two. This probably occurred in
3 a different phase, which could have a wholly
4 entirely different parameter established to.

5 MR. THOMAS JAKUBIK: I object.

6 MS. NAUMER: Well --

7 MR. THOMAS JAKUBIK: You never gave --

8 JUDGE DOLAN: All right. All right.

9 MR. THOMAS JAKUBIK: You never gave --

10 JUDGE DOLAN: You filed an objection, so I
11 have to rule on your objection, which I'm not
12 quite sure. Can you give me a reason for your
13 objection?

14 MR. THOMAS JAKUBIK: She never gave me the
15 schedule of gas -- there is no documentation on
16 what phase it's in. There was never anything
17 presented on this gas meter exchange.

18 It's just -- they just exchange it when
19 they feel like exchanging it. There's nothing --
20 I asked several times for the written -- what's
21 the schedule? We don't have a schedule. We just
22 need to get it done in a year. This is no

1 different. The same conversation is right here.

2 MS. NAUMER: Your Honor, I did not -- he's
3 putting words into my mouth that I did not say,
4 and I find it very problematic to try to respond
5 to him because he's doing that. There has been
6 testimony --

7 JUDGE DOLAN: Okay. All right. All right. I
8 understand.

9 At this point, Mr. Jakubik, I cannot
10 allow this during, especially the
11 cross-examination of this witness. Procedurally,
12 this should have been brought up as part of your
13 direct testimony.

14 This should have been brought up, then
15 they would have had an opportunity to respond to
16 it. You can't save your evidence for the final
17 questions right before we're ready to wrap up the
18 trial.

19 MR. THOMAS JAKUBIK: Well, may I ask one other
20 question though? Then when they withhold
21 discovery and they show up with it here at the
22 trial, then that's okay?

1 JUDGE DOLAN: It --

2 MS. NAUMER: I highly resent that allegation

3 because I --

4 JUDGE DOLAN: Sarah.

5 MS. NAUMER: Okay.

6 JUDGE DOLAN: Mr. Jakubik, they brought in

7 personnel to testify about the -- and if you

8 remember her questions about these are documents

9 that are prepared in the course of your business,

10 your regular business.

11 MR. THOMAS JAKUBIK: Correct.

12 JUDGE DOLAN: Okay. That is a proper

13 foundation for introducing these documents.

14 MR. THOMAS JAKUBIK: But I requested those

15 documents six months ago.

16 MS. NAUMER: I respectfully disagree.

17 MR. THOMAS JAKUBIK: And they showed up here.

18 MS. NAUMER: I respectfully disagree that you

19 were withheld any documents that you requested.

20 I mean, I don't want to get into a whole

21 new discovery disputes, but we went through all

22 of the things that -- he went through CAD ticket

1 after CAD ticket after CAD ticket and not a
2 single CAD ticket that Mr. Krueger discussed had
3 anything to do with this notice allegation, had
4 anything to do with that.

5 One was of a regular meter read, another
6 was -- I mean, we went through that stuff. With
7 the exception of a sole one that we inadvertently
8 might have not included, that was presented here
9 with testimony today and that doesn't contain any
10 new information. It's duplicative.

11 He was not withheld anything that was
12 relevant, and we went through round after round.
13 On discovery, he asked very vague, very hard to
14 decipher questions; and we did the best we could
15 in responding to them.

16 JUDGE DOLAN: I'm not going to allow you to
17 use it. If you want to reserve it, that's fine.

18 MR. THOMAS JAKUBIK: That's fine.

19 JUDGE DOLAN: So do you have any other
20 questions of this witness?

21 MR. THOMAS JAKUBIK: No.

22 JUDGE DOLAN: Okay. Then you are excused.

1 Any other presentation from defense?

2 MS. NAUMER: No, your Honor.

3 JUDGE DOLAN: All right. Then, Mr. Jakubik,

4 you want to introduce your documents into

5 evidence?

6 MR. THOMAS JAKUBIK: The stack that I've

7 already given you?

8 JUDGE DOLAN: Well, you have -- yes, you do

9 have to introduce them.

10 MR. THOMAS JAKUBIK: I have no idea what

11 you're talking about. I gave you a stack. If

12 that's what you're speaking of. . .

13 JUDGE DOLAN: I have the stack of documents,

14 sir. I just -- you do have to say what they are

15 for the record so we can either present them or

16 not present them.

17 MR. THOMAS JAKUBIK: So, here it is. Tell me

18 what's the proper way to enter that into.

19 JUDGE DOLAN: You provided me with a copy like

20 this, but I think it's the same.

21 MR. THOMAS JAKUBIK: Correct.

22 MS. NAUMER: Your Honor, I hate to do this,

1 but for the most part, flipping through the stack
2 he gave us, I think for the most part these are
3 what we had introduced with exhibit numbers on
4 them. Actually, that's not -- do you just want
5 to redo one of his exhibits and one of ours jut
6 so we don't have make sure that --

7 JUDGE DOLAN: I think these are the same --
8 these are the same documents. They're just not
9 stapled together in the same manner.

10 MR. THOMAS JAKUBIK: Correct. Correct.

11 JUDGE DOLAN: So if you want to introduce just
12 as a Group Exhibit No. 1; and then whatever
13 duplicative, I'll deal with that at the time.

14 And then if you want to introduce this
15 as your Exhibit No. 2, Complainant's Exhibit
16 No. 2. That's how they need to be introduced
17 into evidence. Okay?

18 MR. THOMAS JAKUBIK: Okay. Yes.

19 JUDGE DOLAN: And I don't know about this, if
20 we want to introduce this into evidence since he
21 testified to your Exhibit No. 3.

22 MR. THOMAS JAKUBIK: So I'd like to introduce

1 a package of materials as Exhibit 1.

2 JUDGE DOLAN: We'll call that Complainant's
3 Exhibit No. 1.

4 MR. THOMAS JAKUBIK: Right.

5 JUDGE DOLAN: As we indicated, I believe most
6 of the letters -- most of these documents are
7 contained in the Nicor exhibits, so I'm assuming
8 there will be no objection.

9 MS. NAUMER: No objection, your Honor.

10 MR. THOMAS JAKUBIK: And then Complainant's
11 Exhibit No. 2 is the Village of Mount Prospect
12 Landlord Tenant Right summary.

13 JUDGE DOLAN: Any objection?

14 MS. NAUMER: No objection.

15 JUDGE DOLAN: Okay. Since you've read your
16 statement pretty much into the record, I take it
17 you don't want to worry about entering this as an
18 exhibit.

19 MR. THOMAS JAKUBIK: What, my presentation?

20 JUDGE DOLAN: Yes.

21 MR. THOMAS JAKUBIK: No. Well, should I?

22 JUDGE DOLAN: I really can't give you any

1 advice on that, but I think --

2 MR. THOMAS JAKUBIK: Okay. Then I'd like to

3 make my written presentation as Exhibit 3. How's

4 that?

5 MS. NAUMER: Hang on one second, your Honor.

6 Your Honor, it's duplicative of what's

7 already in there. I don't have an objection.

8 It's already in the record anyway.

9 JUDGE DOLAN: All right. Complainant's

10 Exhibit No. 3 will be admitted into evidence.

11 (Whereupon, Complainant's

12 Exhibit Nos. 1, 2 and 3 were

13 admitted into evidence.)

14 JUDGE DOLAN: Anything else, Mr. Jakubik?

15 MR. THOMAS JAKUBIK: No, your Honor.

16 JUDGE DOLAN: Okay. Ms. Naumer?

17 MS. NAUMER: Your Honor, we would like to move

18 to enter into the record Nicor Exhibits 1 through

19 18, which were previously addressed during the

20 testimony phase with foundations laid.

21 JUDGE DOLAN: Any objection, Mr. Jakubik?

22 MR. THOMAS JAKUBIK: No, your Honor.

1 JUDGE DOLAN: All right. Then Nicor Exhibit 1
2 through 18 will be admitted into evidence.
3 (Whereupon, Nicor
4 Exhibit Nos. 1-18 were
5 admitted into evidence.)
6 JUDGE DOLAN: Do we have -- this was given to
7 me but -- what was this 6?
8 MS. NAUMER: I think it's 15. We'll get you a
9 better copy.
10 JUDGE DOLAN: Well, 6 is this one but this
11 wasn't marked as an exhibit either.
12 MS. NAUMER: You know what, let me get you
13 copy of both of those.
14 JUDGE DOLAN: It will probably be easier for
15 the record just to have copies instead of the
16 original documents.
17 MS. NAUMER: And we have extra copies for him
18 too, your Honor.
19 JUDGE DOLAN: You don't have any problems with
20 copies being contained in the record as opposed
21 to originals?
22 MR. THOMAS JAKUBIK: No.

1 JUDGE DOLAN: Okay. Then with that, Nicor's
2 exhibits will be admitted into evidence.

3 Is there anything else?

4 MS. NAUMER: You know, I just wanted to raise,
5 you know, as a question whether you wanted
6 anything further from us, your Honor.

7 I didn't know if you'd like some sort of
8 a -- I don't know. I just wanted to make sure
9 you didn't want us to provide you with anything
10 further, you know, a brief or anything, not that
11 we necessarily want to go down that road.

12 JUDGE DOLAN: No. No. I'm fine with that.

13 MS. NAUMER: Okay.

14 JUDGE DOLAN: All right. So if there is
15 nothing else, I will mark this matter heard and
16 taken; and I will issue my decision in this
17 matter.

18 HEARD AND TAKEN

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